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नई दिल्ली, शनिवार, अगस्त 26, 1989/भाद्र 4, 1911
NEW DELHI, SATURDAY, AUGUST 26, 1989/BHADRA 4, 1911

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-Section (ii)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than
the Ministry of Defence)

विधि एवं न्याय मंत्रालय
(विधि कार्य विभाग)

सूचना

नई दिल्ली: 26 जुलाई, 1989

MINISTRY OF LAW AND JUSTICE

(Department of Legal Affairs)

New Delhi, the 26th July, 1989

NOTICE

का. प्रा. 1943--नोटरीज नियम 1956 के नियम 6 के
अनुसरण में मजम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री
साधु राम ऐडवोकेट ने उक्त प्राधिकारी को उक्त नियम के
नियम 4 के अर्थान एक आवेदन इस धान के लिए दिया है कि उसे
जगधरी जिल्ला हजिमाणा अधिसूचना करने के लिए नोटरी के रूप
में नियुक्त किया जाए।

2 उक्त व्यक्ति की नोटरी के रूप में नियुक्ति पर किसी भी
प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर
लिखित रूप में मेरे पास भेजा जाए।

[सं. 5/40/89-जुडि.]

के. डी. सिंह, मजम प्राधिकारी

S.O. 1943.--Notice is hereby given by the Competent
Authority in pursuance of rule 6 of the Notaries, 1956, that
application has been made to the said Authority, under rule
4 of the said Rules, by Shri Sadhu Ram Advocate for
appointment as a Notary to practise in Jagadhari Distt.,
Ambala.

2. Any objection to the appointment of the said person
as a Notary may be submitted in writing to the undersigned
within fourteen days of the publication of this Notice.

[No. F. 5(40)/89-Judl.]

K. D. SINGH, Competent Authority

गृह मंत्रालय

(आन्तरिक सुरक्षा विभाग)

(पुनर्वास प्रभाग)

नई दिल्ली, 17 जुलाई, 1989

का. भा. 1944:--निष्कांत संपत्ति प्रबंध अधिनियम, 1950 (1950 का 31) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा पुनर्वास विभाग राजस्थान राज्य में आयुक्त-सह-सचिव को इसके अपने कार्य के श्रितिकृत उक्त अधिनियम के द्वारा अथवा उसके अंतर्गत राजस्थान राज्य में निष्कांत संपत्तियों के संबंध में उपमहाअभिरक्षक को सौंपे गए कार्यों का निष्पादन करने के लक्ष्य से निष्कांत संपत्ति का उप महाअभिरक्षक नियुक्त करती है।

2. इस अधिसूचना द्वारा दिनांक 9-6-1989 की अधिसूचना संख्या-1 (II)/विशेष सेल/88-एस. एम.-II (ख) का अधिकरण किया जाता है।

[संख्या 1 (11)/विशेष सेल/88-एस. एस. II (क)]

कुलदीप राय, उप सचिव

MINISTRY OF HOME AFFAIRS

(Department of Internal Security)

(Rehabilitation Division)

New Delhi, the 17th July, 1989

S.O. 1944.—In exercise of the powers conferred by Section 5 of the Administration of Evacuee Property Act, 1950 (31 of 1950), the Central Government hereby appoints Commissioner-Cum-Secretary, Rehabilitation Department, Government of Rajasthan, as Deputy Custodian General of Evacuee Property for the purpose of discharging, in addition to his own duties, the duties imposed on such Deputy Custodian General by or under the said Act in respect of evacuee properties in the Rajasthan State.

2. This notification supersedes notification No. 1(11)/Spl. Cell/88-SS.II(B) dated 9-6-1989.

[No. 1(11)/Spl. Cell/88-SS.II(A)]

KULDIP RAI, Dy. Secy.

नई दिल्ली, 17 जुलाई, 1989

का. भा. 1945:--निष्कांत संपत्ति प्रबंध अधिनियम 1950 (1950 का 31) की धारा 55 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं जी. पी.एस. साही महाअभिरक्षक एतद्वारा इस विभाग की अधिसूचना संख्या-1 (11)/विशेष सेल/78-एस. एस. (II) (क) दिनांक 17 जुलाई, 1989 द्वारा उप महाअभिरक्षक के रूप में नियुक्त आयुक्त-सह-सचिव पुनर्वास विभाग, राजस्थान सरकार में महाअभिरक्षक की निम्नलिखित शक्तियों को प्रत्यागोजित करता हूँ:—

- (1) उक्त अधिनियम की धारा 34 और 27 के अंतर्गत अपील सुनने की शक्तियाँ।
- (2) अधिनियम की धारा 10 (2) (0) के अंतर्गत किसी निष्कांत संपत्ति में हस्तांतरण के अनुमोदन की शक्तियाँ।
- (3) निष्कांत संपत्ति प्रबंध नियम (केन्द्रीय) नियम 1950 के नियम 30-ए के अंतर्गत मामलों के हस्तांतरण की शक्तियाँ।

2. इसके द्वारा अधिसूचना संख्या-1 (11)/विशेष सेल/88-एस. एस. II (ग) दिनांक 9-6-1989 का अधिकरण किया जाता है।

[संख्या 1 (II)/विशेष सेल/88-एस. एस. II (ख)]

जी. पी. एस. साही, महाअभिरक्षक

New Delhi, the 17th July, 1989

S.O. 1945.—In exercise of the powers conferred on me by Sub-section (3) of Section 55 of the Administration of Evacuee Property Act, 1950 (31 of 1950), I, G.P.S. Sahi, Custodian General, hereby delegate to the Commissioner-Cum-Secretary, Rehabilitation Department, Government of Rajasthan appointed as Deputy Custodian General vide this Department's notification No. 1(11)/Spl. Cell/88-SS. II(A) dated 17th July, 1989, the following powers of the Custodian General:—

- (i) Powers under Sections 24 and 27 of the Act.
- (ii) Powers of approval of transfer of any evacuee property under Section 10(2)(o) of the Act.
- (iii) Powers of transfer of cases under Rules 30-A of the Administration of Evacuee Property (Central) Rules, 1950.

2. This supersedes notification No. 1(11)/Spl. Cell/88-SS.II(C) dated 9-6-1989.

[No. 1(11)/Spl. Cell/88-SS.II(B)]

G.P.S. SAHI, Custodian General

कार्मिक, लोक शिफायत तथा पेंशन संज्ञा

(कार्मिक और प्रशिक्षण विभाग)

आदेश

नई दिल्ली, 26 जुलाई, 1989

का. भा. 1946:--केन्द्रीय सरकार, दिल्ली विशेष पुनर्वास अधिनियम, 1946 (1946 का अधिनियम सं 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, महाराष्ट्र राज्य सरकार की सहमति से, दिल्ली विशेष पुनर्वास अधिनियम के सदस्यों की शक्तियों और अधिकारिता का विस्तार निम्नलिखित अपराधों के अन्वेषण के लिए संपूर्ण महाराष्ट्र राज्य पर करता है:—

- (क) मिर्जापुरी, जिला चन्द्रपुर महाराष्ट्र के आनंद मारुति गोतवा की मृत्यु के संबंध में दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 174 के अधीन, प्रार. सी. सं. 10/एस. सी. बी./89-के. भा. व्यू./वि. पु. म्या./मुम्बई के अधीन रजिस्ट्रेशन मामला।
- (ख) ऊपर वर्णित एक या अधिक अपराधों के संबंध में या उनसे संसक्त प्रयत्नों, वृत्तियों और चरित्रों के और किसी तथ्यों से उत्पन्न होने वाले एक संयोजन के अन्वेषण के लिए, किन्हीं अन्य अपराधों या अपराधों के संबंध में।

[संख्या 228/18/89-ए. बी. डी. (II)]

जी. सातारामन, अवर सचिव

MINISTRY OF PERSONNEL, P.G. AND PENSIONS

(Department of Personnel & Training)

ORDER

New Delhi, the 26th July, 1989

S.O. 1946.—In exercise of the powers conferred by sub-section (1) of section 5, read with Section 6, of the Delhi

Police Establishment Act, 1946 (Act 25 of 1946) the Central Government, with the consent of the State Government of Maharashtra, hereby extends the powers and jurisdiction of the members of the Delhi Police Establishment to the whole of State of Maharashtra for investigation of offences as hereunder :—

- (a) Case Registered under R.C. No. 10/SCB/89-CBI : SPE Bombay under section 174 of the Criminal Procedure Code 1973 (2 of 1974) relating to death of Anand Maruti Gonerwar of Sindewahi, Distt. Chandrapur, Maharashtra.
- (b) Attempts, abetments and conspiracies relating to or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of same transaction arising out of the same facts.

[No. 228/18/89-AVD.II]

G. SITARAMAN, Under Secy

लिया मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 23 फरवरी, 1989

(आयकर)

भा. आ. 1974—सर्व साधारण की जानकारी के लिए एतद्वारा यह अधिसूचना किया जाता है कि विहित प्राधिकारी अर्थात् वैज्ञानिक और औद्योगिक अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आयकर नियम 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खण्ड (ii) (पैतीम/एक/दो) के प्रयोजनों के लिए "संगठन" प्रवर्ग के अधीन निम्नलिखित शर्तों पर अनुमोदित किया है :—

- (i) यह कि बम्बे नेचुरल हिस्ट्री सोसाइटी, हॉर्नबिल हाउस लायन गेट के सामने, भगत सिद्ध रोड के पीछे बम्बई 400023 अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृथक लेखा रखेगा।
- (ii) यह कि उक्त संगठन अपने वैज्ञानिक अनुसंधान सम्बंधी कार्यों-कर्मों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक वित्तीय वर्ष के सम्बंध में प्रतिवर्ष 31 मार्च तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिनियमित किया जाए और उसे सूचित किया जाए।
- (iii) यह कि उक्त संगठन अपनी कुल आय तथा व्यय वर्णित हुए अपने संपरीक्षित वार्षिक लेखों की तथा अपनी परिसंस्थियाँ, वेतनवारियाँ दर्शाते हुए तुल्य-पत्र की एक एक प्रति, प्रतिवर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक की एक-एक प्रति केन्द्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली, आयकर महानिदेशक (छूट), कलकत्ता तथा सम्बंधित आयकर आयुक्त के पास भेजेगा।
- (iv) यह कि उक्त संगठन केन्द्रीय प्रत्यक्ष कर बोर्ड वित्त मंत्रालय (राजस्व विभाग) नई दिल्ली तथा आयकर महानिदेशक (छूट), कलकत्ता को अनुमोदन की समाप्ति से पूर्व अतिरिक्त अधि वढावे के लिए आवेदन करेगा। अनुमोदन की समाप्ति की तारीख के पश्चात् प्राप्त होने वाले आवेदन पत्रों को नष्ट कर दिया जाएगा।

इंस्टीट्यूशन/एसोसिएशन

बम्बे नेचुरल हिस्ट्री सोसाइटी, हॉर्नबिल हाउस बम्बई—400023

यह अधिसूचना 1-4-1986 से 31-3-1989 तक की अवधि के लिए प्रभावी है।

[सं. 8202/फा. सं. 203/136/86-आयकर नि. II]

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 23rd February, 1989

INCOME TAX

S.O. 1947.—It is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category Association subject to the following conditions :—

- (i) That Bombay Natural History Society, Hornbill House, Opp. Lion Gate, Behind Bhagat Singh Road, Bombay-400023 will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- (iii) That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets, liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the Concerned Commissioner of Income-tax.
- (iv) That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance, (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension, Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Bombay Natural History Society, Hornbill House, Bombay-400023.

This Notification is effective for a period from 1-4-1986 to 31-3-1989.

[No. 8202/F. No. 203/136/86-ITA.II]

आयकर

फा. आ. 1948—इस कार्यालय की दिनांक 22-8-1985 की अधिसूचना सं. 6379 (फा. सं. 203/80/85—फा. क. नि.-II) के अनुक्रम में, सर्व साधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि विहित प्राधिकारी अर्थात् वैज्ञानिक और औद्योगिक अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आयकर नियम 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उप-धारा (i) के खण्ड (ii) (पैतीम/एक/दो) के प्रयोजनों के लिए "संगठन" प्रवर्ग के अधीन निम्नलिखित शर्तों पर अनुमोदित किया है :—

- (i) यह कि नेशनल इंस्टिट्यूट आफ सेंटल हेल्थ एण्ड स्पूरी साइंस बंगलूर अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृथक लेखा रखेगा।

(ii) यह कि उक्त संगठन अपने वैज्ञानिक अनुसंधान सम्बन्धी कार्य-कलापों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक वित्तीय वर्ष के सम्बन्ध में प्रतिवर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिक कथित किया जाए और उसे सूचित किया जाए।

(iii) यह कि उक्त संगठन अपनी कुल आय तथा व्यय दर्शाते हुए अपने संपरीक्षित वार्षिक लेखों की तथा अपनी परिसम्पत्तियों, देनदारियों दर्शाते हुए मुलन-पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक की एक एक प्रति केन्द्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली, आयकर महानिदेशक (छूट) कलकत्ता तथा सम्बन्धित आयकर आयुक्त के पास भेजेगा।

(4) यह कि उक्त संगठन केन्द्रीय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय (राजस्व विभाग), नई दिल्ली तथा आयकर महानिदेशक (छूट), कलकत्ता को अनुमोदन की समाप्ति के पूर्व अनिवार्य अवधि बढ़ाने के लिए आवेदन करेगा। अनुमोदन की समाप्ति की तारीख के पश्चात् प्राप्त होने वाले आवेदन पत्रों को रद्द कर दिया जाएगा।

इस्टीमेशन/एसोसिएशन

नेशनल इंस्टिट्यूट ऑफ मेंटल हेल्थ एंड न्यूरो साइंसेस, बंगलूर।

यह अधिसूचना दिनांक 1-4-1988 से 31-3-1989 तक की अवधि के लिए प्रभावी है।

[सं. 8209/फा. सं. 203/152/88-आयकर नि.-II]

INCOME TAX

S.O. 1948.—In continuation of this Office Notification No. 6379 (F. No. 203/80/85-ITA.II) dated 22-8-1985 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category "Association" subject to the following conditions:—

- (i) That National Institute of Mental Health & Neuro Sciences, Bangalore will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.
- (iii) That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets, liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the concerned Commissioner of Income-tax.
- (iv) That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension, Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

National Institute of Mental Health and Neuro Sciences, Bangalore.

This Notification is effective for a period from 1-4-1988 to 31-3-1989.

[No. 8209/F. No. 203/152/88-ITA.II]

नई दिल्ली, 14 मार्च, 1989

आयकर

का. प्रा. 1949.—इस कार्यालय की दिनांक 30-6-87 की अधिसूचना सं. 7389 (फा. सं. 203/305/86-आ. कर नि.-II) के अनुक्रम में, सर्व साधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि विहित प्राधिकारी यथावत् वैज्ञानिक और औद्योगिक अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आयकर नियम 1962 के नियम 6 के साथ पठित आयकर अधिनियम 1961 की धारा 35 की उपधारा (i) के खण्ड (iii) (पैनाल/एक/तीन) के प्रयोजनों के लिए "संस्था" प्रवर्ग के अधीन निम्नलिखित शर्तों पर अनुमोदित किया है --

(i) यह कि श्री अरविन्द अन्तर्राष्ट्रीय शैक्षिक अनुसंधान संस्थान, तमिलनाडु अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पृथक लेखा रखेगा।

(ii) यह कि उक्त संस्थान अपने वैज्ञानिक अनुसंधान सम्बन्धी कार्य-कलापों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक वित्तीय वर्ष के सम्बन्ध में प्रतिवर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा, जो इस प्रयोजन के लिए अधिक कथित किया जाए और से सूचित किया जाए।

(iii) यह कि उक्त संस्थान अपनी कुल आय तथा व्यय दर्शाते हुए अपने संपरीक्षित वार्षिक लेखों की तथा अपनी परिसम्पत्तियों, देनदारियों दर्शाते हुए मुलन-पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक की एक-एक प्रति केन्द्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली, आयकर महानिदेशक (छूट), कलकत्ता तथा सम्बन्धित आयकर आयुक्त के पास भेजेगा।

(4) यह कि उक्त संस्थान केन्द्रीय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय (राजस्व विभाग), नई दिल्ली तथा आयकर महानिदेशक (छूट), कलकत्ता को अनुमोदन की समाप्ति से पूर्व अनिवार्य अवधि बढ़ाने के लिए आवेदन करेगा। अनुमोदन की समाप्ति की तारीख के पश्चात् प्राप्त होने वाले आवेदन पत्रों को रद्द कर दिया जाएगा।

इस्टीमेशन

श्री अरविन्द अन्तर्राष्ट्रीय शैक्षिक अनुसंधान संस्थान, तमिलनाडु

यह अधिसूचना दिनांक 1-4-88 से 31-3-89 तक की अवधि के लिए प्रभावी है।

[सं. 8241/फा. सं. 203/60/88-आयकर नि.-II]

New Delhi, the 14th March, 1989

INCOME TAX

S.O. 1949.—In continuation of this Office Notification No. 7389 (F. No. 203/305/86-ITA.II) dated 30-6-87 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (iii) of sub-section (1) of Section 35 (Thirty Five/One/Three) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category "Institution" subject to the following conditions:—

- (i) That Sri Aurobindo International Institute of Educational Research, Tamil Nadu will maintain a separate account of the sums received by it for scientific research.
- (ii) That the said Institute will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.

(iii) That the said Institute will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the concerned Commissioner of Income-tax.

(iv) That the said Institute will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Sri Aurobindo International Institute of Educational Research, Tamil Nadu.

This Notification is effective for a period from 1-4-88 to 31-3-89.

[No. 8241/F. No. 203/60/88-ITA.II]

नई दिल्ली, 4 अप्रैल, 1979

आयकर

का. धा. 1950—3यं कार्यालय की दिनांक 3-4-1987 की अधिसूचना सं. 7217 (फा. सं. 203/34/87 - आ. कर. नि. -II) के अनुक्रम में, सर्व साधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि विहित प्राधिकारी अर्थात् वैज्ञानिक और औद्योगिक अनुसंधान विभाग, नई दिल्ली, ने निम्नलिखित संस्था को आयकर नियम 1962 के नियम 6 के माध्यम से पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (i) के खंड (ii) (पैनीस/एफ.टी.) के प्रयोजनों के लिए "एसोसिएशन" प्रवर्ग के अधीन निम्नलिखित शर्तों पर अनुमोदित किया है:—

(i) यह कि बिरला प्लैनेटारियम एंड एस्ट्रोनॉमिकल रिसर्च सेंटर, कलकत्ता अपने वैज्ञानिक अनुसंधान के लिए स्वयं द्वारा प्राप्त राशियों का पूरा लेखा रखेगा।

(ii) यह कि उक्त एसोसिएशन अपने वैज्ञानिक अनुसंधान संबंधी कार्य-कवायों की वार्षिक विवरणी, विहित प्राधिकारी को प्रत्येक वित्तीय वर्ष के संबंध में प्रतिवर्ष 31 मई तक ऐसे प्रपत्रों में प्रस्तुत करेगा जो इस प्रयोजन के लिए अधिक कथित किया जाए और उसे सूचित किया जाए।

(iii) यह कि उक्त एसोसिएशन अपनी कुल आय तथा व्यय दर्शाते हुए अपने संयोजित वार्षिक लेखों की तथा अपनी परिसम्पत्तियों, वेनदारियां दर्शाते हुए तुल्य पत्र की एक-एक प्रति, प्रति वर्ष 30 जून तक विहित प्राधिकारी के पास प्रस्तुत करेगा तथा इन दस्तावेजों में से प्रत्येक की एक-एक प्रति केन्द्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली, आयकर महानिदेशक (छूट), कलकत्ता तथा संबंधित आयकर आयुक्त के पास भेजेगा।

(iv) यह कि उक्त एसोसिएशन केन्द्रीय प्रत्यक्ष कर बोर्ड, वित्त मंत्रालय (राजस्व विभाग) नई दिल्ली तथा आयकर महानिदेशक (छूट), कलकत्ता को अनुमोदन की समाप्ति से पूर्व प्रतिरिक्त अवधि बढ़ाने के लिए आवेदन करेगा अनुमोदन की समाप्ति की तारीख के पश्चात् प्राप्त होने वाले आवेदन पत्रों को रद्द कर दिया जाएगा।

इंस्टीट्यूशन/एसोसिएशन

बिरला प्लैनेटारियम एंड एस्ट्रोनॉमिकल रिसर्च सेंटर, कलकत्ता।

यह अधिसूचना दिनांक 1-4-1988 से 31-3-1989 तक की अवधि के लिए प्रभावी है।

[सं. 8319/फा. सं. 203/94/88-आयकर. नि. -II]

निशि नायर, अवर सचिव

New Delhi, the 4th April, 1989

INCOME TAX

S.O. 1950.—In continuation of this Office Notification No. 7217 (F. No. 203/34/87-ITA.II) dated 3-4-1987 it is hereby notified for general information that the Institution mentioned below has been approved by Department of Scientific and Industrial Research, New Delhi, the Prescribed Authority for the purposes of clause (ii) of sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 read with rule 6 of the Income-tax Rules, 1962 under the Category "Association" subject to the following conditions:—

(i) That Birla Planetarium and Astronomical Research Centre, Calcutta will maintain a separate account of the sums received by it for scientific research.

(ii) That the said Association will furnish annual returns of its scientific research activities to the Prescribed Authority for every financial year in such forms as may be laid down and intimated to them for this purpose by 31st May each year.

(iii) That the said Association will submit to the Prescribed Authority by 30th June each year a copy of their audited annual accounts showing their income and expenditure and Balance Sheet showing its assets/liabilities with a copy of each of these documents to the Central Board of Direct Taxes, New Delhi, DGIT (Exemption) Calcutta and the Concerned Commissioner of Income-tax.

(iv) That the said Association will apply to Central Board of Direct Taxes, Ministry of Finance (Department of Revenue), New Delhi and DGIT (Exemption) Calcutta before the expiry of the approval for further extension. Applications received after the date of expiry of approval are liable to be rejected.

INSTITUTION/ASSOCIATION

Birla Planetarium and Astronomical Research Centre, Calcutta.

This Notification is effective for a period from 1-4-1988 to 31-3-1989.

[No. 8319/F. No. 203/94/88-ITA.II]

NISHI NAIR, Under Secy.

नई दिल्ली, 1 जून, 1989

आयकर

का. धा. 1951.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "गौडिया मिशन" कलकत्ता को उक्त उपखंड के प्रयोजनार्थ कर निर्धारण वर्ष 1987-88 से 1989-90 के लिए अधिसूचित करती है।

[सं. 8380/फा. सं. 197/122/89-आ. कर. (नि-I)]

के. के. त्रिपाठी, उप सचिव

INCOME-TAX

New Delhi, the 1st June, 1989

INCOME-TAX

S.O. 1951.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Gaudiva Mission", Calcutta for the purpose of the said sub-clause for the assessment year 1987-88 to 1989-90.

[No. 8380/F. No. 197/122/89-JT(AI)]

K. K. TRIPATHI Dv. Secy.

आदेश

(आर्थिक कार्य विभाग)

नई दिल्ली, 27 जुलाई, 1989

(बैंकिंग प्रभाग)

स्टाम्प

नई दिल्ली, 1 अगस्त, 1989

का. आ. 1952.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एन.डी.आर. मैसर्स एस.के.एफ. बियरिंग्स इंडिया लि., बम्बई को एक लाख सत्तर हजार और पांच सौ रुपये मात्र के उस समेकित स्टाम्प शुल्क का भुगतान करने की अनुमति प्रदान करती है जो उक्त कंपनी द्वारा जारी किए जाने वाले दो करोड़ पचास लाख रुपये मात्र के 100-100 रुपये के अतिरिक्त मूल्य वाले ऋण संस्था 1 से 2,52,000 तक 15 प्रतिशत सुरक्षित अल्पपरिवर्तनीय ऋण पत्रों पर स्टाम्प शुल्क के कारण प्रभाव्य है।

[सं. 37/89-स्टाम्प/का. सं. 33/41/89-वि. क.]

ORDER

New Delhi, the 27th July, 1989

STAMPS

S.O. 1952.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits the SKF Bearings India Limited, Bombay to pay consolidated stamp duty of rupees one lakh eighty seven thousand and five hundred only, chargeable on account of the stamp duty on 15 per cent secured non-convertible debentures of Rs. 100 each bearing serial numbers 1 to 2,50,000 of the face value of rupees two crores fifty lakhs only to be issued by the said Company.

[No. 37/89-Stamp/F. No. 33/41/89-ST]

आदेश

स्टाम्प

का. आ. 1953.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एन.डी.आर. मै. ए. टी. सी. प्रोजेक्ट्स इंडिया लि., बम्बई को चार लाख पचास हजार रुपये मात्र के उस समेकित स्टाम्प शुल्क का भुगतान करने की अनुमति प्रदान करती है जो उक्त कंपनी द्वारा जारी किए जाने वाले कुल छः करोड़ रुपये मात्र के ऋण पत्रों के रूप में 100-100 रुपये के अतिरिक्त मूल्य वाले ऋणपत्रों, क्रमांक 00000001 से 006,00,000 तक के छः लाख ऋण पत्रों पर स्टाम्प शुल्क के कारण प्रभाव्य है।

[सं. 36/89-स्टाम्प/का. सं. 33/49/89-वि. क.]

बी. आर. मेहमी, अवसर सचिव

ORDER

STAMPS

S.O. 1953.—In exercise of the powers conferred by clause (b) of Sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits the ATV Projects India Limited, Bombay to pay consolidated stamp duty of rupees four lakhs fifty thousand only, chargeable on account of the stamp duty on six-lakh debentures bearing serial number 00000001 to 006,00,000 of the face value of Rs. 100 each bonds in the form of debentures of the total value of rupees six crores only to be issued by the said Company.

[No. 36/89-Stamp/F. No. 33/49/89-ST]

B. R. MEHMI, Under Secy.

का. आ. 1954.—राष्ट्रीय बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1980 की धारा 9 की उपधारा (2) के तहत पटिन धारा 3 की उपधारा (ख) के अनुवर्ण में, केन्द्रीय सरकार, एन.डी.आर. श्री योग राज गुप्त, विशेष सहायक ओरिएण्टल बैंक आफ कमर्स, शाखा कार्यालय, चौक पुरानी कोतवाली, पटियाला को दिनांक 1 अगस्त, 1989 से 31 जुलाई, 1992 तक अथवा जब तक वे इंडियन ओरिएण्टल बैंक के एक कर्मचारी के रूप में अपनी सेवा छोड़ नहीं देते हैं, इतने से जो भी पहले हो, ओरिएण्टल बैंक आफ कमर्स के निदेशक बोर्ड में निदेशक के रूप में नियुक्त करती है।

[संख्या का. 15/2/89-पाई. आर.]

जगपत सेठी, उपा सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 1st August, 1989

S.O. 1954.—In pursuance of sub-clause (b) of Clause 3 read with sub-clause (2) of Clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government hereby appoints Shri Yog Raj Gupta, Special Assistant, Oriental Bank of Commerce, Branch Office Chowk Purani Kotwali, Patiala as a Director on the Board of Directors of Oriental Bank of Commerce with effect from 1st August, 1989 to 31st July, 1992 or until he ceases to be an employee of Oriental Bank of Commerce, whichever is earlier.

[F. No. 15/2/89-IR]

Y. P. SETHI, Dy. Secy.

कार्यालय आयकर आयुक्त, पश्चिम बंगाल - 1

कलकत्ता, 31 मार्च, 1989

अधिसूचना सं. 40/88-89

का. आ. 1955.आयकर अधिनियम 1961 (1961 का 43) की धारा 120 की उपधारा (1) और (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, और मुख्य आयकर आयुक्त (प्रशा.) कलकत्ता की अधिसूचना सं.-20/89 - 89 का. सं. आ. अ./मुख्या/तक. 273/88-89 दिनांक 31-3-89 /मु. आ./ प्रशा. (के. का. सं. आ. अ./मुख्या/तक. 273/88-89/24153-24652 दिनांक 31-3-89 द्वारा प्रेषित (और इस दिशा में क्षमता प्रदान करने वाली अन्य शक्तियों का प्रयोग करते हुए, मैं, मुख्य आयकर आयुक्त प. बं. - 1, कलकत्ता एन.डी.आर. निदेश देता हूँ कि, आयकर अधिकारी, वार्ड-1 गंगटोक का नया प्रभार जो इस कार्यालय के अधिसूचना सं. 39/88-89 दिनांक 31-3-89 द्वारा गृहित किया गया था, आयकर उपायुक्त जन पाईगुडी रेंज, जनपाईगुडी के क्षेत्राधिकार के अधीन, सहायक आयकर आयुक्त सकल-1, गंगटोक के नाम से रहेगा।

शर्त यह है कि उक्त अधिनियम की धारा 124 अथवा 127 के अधीन वाद में, मेरे द्वारा कोई निदेश/आदेश जारी होने तक, उक्त आयकर अधिकारी इस अधिसूचना के अंतर्गत अपना कृत्य बत पालन करेंगे।

यह अधिसूचना दिनांक 1-1-89 से लागू होगी।

[एफ. नं. 88-10/प. वं.-1/88-89]

OFFICE OF THE COMMISSIONER OF INCOME-TAX,
WEST BENGAL—I

Calcutta, the 31st March, 1989

NOTIFICATION NO. 40/88-89

S.O. 1955.—In exercise of powers conferred by Sub-section (1) & (2) of Section 120 of Income Tax Act, 1961 (43 of 1961) the powers conferred by the Notification No. 20/88-89 in File No. ITO/HQ/TFCH/273/88-89 dated 31st March, 1989 of the Chief Commissioner of Income-tax (Administration), Calcutta (forwarded under C.C(A)'s Memo No. ITO/HQ/TFCH/273/88-89/24153-24652 dated 31st March, 1989), and all other powers enabling me in this behalf I, the Commissioner of Income-tax, West Bengal-I, Calcutta hereby direct that the new charge of Income-tax Officer, Ward-1, Gangtok created vide this office Notification No. 39/88-89 dated 31st March, 1989 shall be renamed as Assistant Commissioner of Income-tax, Circle-1, Gangtok and shall be under the jurisdiction of Deputy Commissioner of Income-tax, Jalpaiguri Range, Jalpaiguri.

Provided that the aforesaid Income-tax Authorities shall perform their functions under this Notification subject to any direction/order that may hereafter be issued by me under section 124 or section 127 of the said Act.

This Notification shall come into force on and from the 1st day of April, 1989.

[F. No. Juris-20/W.B.-1/88-89]

कलकत्ता, 13 अप्रैल, 1989

अधिसूचना संख्या - 1/89-90

का. प्रा. 1956:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 120 की उपधारा 1 और 2 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और मुख्य आयकर आयुक्त (प्रशा.), कलकत्ता के फाइल संख्या सी. सी. ए. /20/13/88-89 के अधिसूचना संख्या - 1/88-89 तारीख 30-3-88 तथा अधिसूचना संख्या 11/88-89 तारीख 16-6-88 के प्राधिकरण द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और इस कार्यालय के तारीख 28-6-88 की अधिसूचना संख्या 12/88-89 के आगे, मैं, आयकर आयुक्त, पश्चिम बंगाल-6, कलकत्ता एतद्वारा एक नया प्रभार आयकर अधिकारी वार्ड-3 जलपाईगुड़ी का सृजन करता हूँ।

मैं निदेश देता हूँ कि आयकर अधिकारी, वार्ड-3 जलपाईगुड़ी आयकर उपायुक्त, जलपाईगुड़ी रेंज क्षेत्राधिकार के अन्तर्गत पढ़ने वाले मामलों में से निश्चित मामलों के बारे में अधिकारिता प्रयोग करेंगे और आयकर उपायुक्त, जलपाईगुड़ी रेंज की अधिकांशता के अधीन रहेंगे;

परन्तु उक्त अधिनियम की धारा 124 अथवा 127 के अधीन बाद में मेरे द्वारा कोई निदेश/आदेश जारी होने तक उक्त आयकर प्राधिकारियों इस अधिसूचना के अधीन अपने कर्तव्यों का पालन करेंगे।

यह अधिसूचना 17 अप्रैल, 1989 से लागू होगी।

[एक. संख्या - श्रेता - i/प व -1/89-90]

के. पी. सिंह, आयकर आयुक्त

Calcutta, the 13th April, 1989

NOTIFICATION NO. 1/89-90

S.O. 1956.—In exercise of power conferred by Section 1 & 2 of Section 120 of the Income-tax Act, 1961 (43 of 1961) and the powers conferred by the authorisation issued by the Chief Commissioner of Income-tax (Admn.), Calcutta by Notification No. 1/88-89 dated 30th March, 1988 and Notification No. 11/88-89 dated 16th June, 1988 in File No. CCA/2P/13/88-89 and in continuation of this office Notification No. 12/88-89 dated 28th June, 1988, I, the Com-

missioner of Income-tax, West Bengal-I, Calcutta, hereby create a new charge of Income-tax Officer, Ward-3, Jalpaiguri.

I direct that the Income-tax Officer, Ward-3, Jalpaiguri shall exercise jurisdiction in respect of the cases assigned out of the cases falling within the jurisdiction of Deputy Commissioner of Income-tax, Jalpaiguri Range and shall be under the jurisdiction of the Deputy Commissioner of Income-tax, Jalpaiguri Range.

Provided that the aforesaid Income-tax authorities shall perform their functions under this Notifications subject to any direction/order that may hereafter be issued by me u/s. 124 or 127 of the said Act.

This Notification shall come into force on and from 17th April, 1989.

[F. No. Juris-1/WB-I/89-90]

K. P. SINGH, Commissioner of Income-Tax.

वाणिज्य मंत्रालय

मुख्य निबंधक आयकर-निर्वाह का कार्यालय

प्रादेश

नई दिल्ली, 1 अगस्त, 1989

का. प्रा. 1957:—मैसर्स इन्डोनिशिया इन्डिया लिमिटेड, ई आई हाउस द्वितीय तल, 1 भोकाजी कामा प्लेस, नई दिल्ली-66 को सामान्य सूची क्षेत्र के अन्तर्गत (1) फान्टम इन प्वाजेंट वेल्थ्स इन कांस्ट्रक्चरल स्टोल्स (2 मेट)-35 स्लाइड्स और (2) मेटलोप्राकी आफ वेल्थ्स इन कांस्ट्रक्चरल स्टोल्स (7मेट)-22 स्लाइड्स के आयात के लिए रु. 2455/- (दो हजार चार सौ पचास रुपये मात्र) मूल्य का एक आयात लाइसेंस सं. आई/डी/1096854 दिनांक 7-6-1988 प्रदान किया गया था।

2. फर्म ने आयात लाइसेंस को अनुसंधान जारी करने के लिए इस आधार पर आवेदन किया है कि मूल आयात लाइसेंस खो गया या गम हो गया है। उन्होंने आने वह भी बताया है कि उक्त आयात लाइसेंस किसी भी सामाजिक कार्यालय में दर्ज नहीं कराया गया है और इसलिए सामाजिक प्रयोजन प्रति का बिल्कुल भी उपयोग नहीं किया गया है।

3. अपने तर्कों के समर्थन में लाइसेंसधारी ने स्टाम्प पेपर पर नोटरी पब्लिक, दिल्ली के समक्ष विधिवत शपथ लेकर एक इतफाका प्रस्तुत किया है तबन्सार मैं संतुष्ट हूँ कि लाइसेंस सं. आई/डी/1096854 दिनांक 7-6-1988 को मूल प्रति फर्म से खो गई या गम हो गई है। 7-12-1955 के यमसंशोधित आयात (निबंधन) आदेश, 1955 को उपधारा 9(सी सी) के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इन्डोनिशिया इन्डिया लिमिटेड, नई दिल्ली को जारी किए गए उक्त मूल लाइसेंस सं. आई/डी/1096853 दिनांक 7-6-88 एतद्वारा पदद किया जाता है।

4. उक्त लाइसेंस को सामाजिक एवं विनियम निबंधन प्रयोजन प्रति को अनुसंधान प्रति फर्म को अलग से जारी की जा रहा है।

[सं. सचल /एन.एस-10/1062/डीआईटी/ए. एस-88/एस एन एस/429]

से. कुजूर, उप मुख्य निबंधक,

आयात - निर्वास

MINISTRY OF COMMERCE

(Office of the Chief Controller of Imports and Exports)

ORDER

New Delhi, the 1st August, 1989

S.O. 1957.—M/s. Engineers India Ltd., FI House, 2nd Floor, 1 Bhikaiji Cama Place, New Delhi-66 were granted an import licence No. I/D/1096854 dated 7th June, 1988 for Rs. 2,455 (Rupees Two thousand Four hundred and Fifty five only) for import of (i) Faults in fusion welds in structural steels (Sets 2)—35 Slides and (2) Metallography of welds in carbon manganese steels (Sets-7)—22 Slides under G.C.A.

2. The firm has applied for issue of Duplicate copy of import licence mentioned above on the ground that the original import licence has been lost or misplaced. It has further been stated that the import licence was not registered with any Customs Authority and as such the value of Customs Purpose copy has not been utilised at all.

3. In support of their contention, the licensee has filed an affidavit on stamped paper duly sworn in before a Notary Public Delhi. I am accordingly satisfied that the original import licence No. I/D/1096854 dated 7th June, 1988 has been lost or misplaced by the firm. In exercise of the powers conferred under sub-clause 9(cc) of the Import (Control) Order, 1955 dated 7th December, 1955 as amended the said original import licence No. I/D/1096854 dated 7th June, 1988 issued to M/s. Engineers India Ltd., New Delhi is hereby cancelled.

4. A duplicate Customs Purposes and Exchange Control copy of the said licence is being issued to the party separately.

[No. Suppl/NS-10/1062/DGTD/AM. 88/SLS/429]

S. KUJUR, Dy. Chief Controller of Imports & Exports

विदेश मंत्रालय

नई दिल्ली, 17 जुलाई, 1989

का.प्रा. 1958.—राजनयिक कौंसली अधिकारी (अथवा एवं शुल्क) अधिनियम, 1948 (1948 का 41 वां), की धारा 2 के खंड (क) के अन्वय में केन्द्रीय सरकार एतद्वारा भारत का प्रधान कौंसलावास जंजीबार सहायक श्री के. के. पटेल को 4.7.1989 से कौंसली एजेंट का कार्य करने के लिए प्राधिकृत करती है।

[सं. टी. 4330/1/89]

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 17th July, 1989

S.O. 1958.—In pursuance of the clause (a) of Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorise of India, ZANZIBAR Sh. K. K. Pahal, Assistant in the Consulate General to perform the duties of Consular Agent with effect from 4-7-1989.

[No. T-4330/1/89]

का.प्रा. 1959.—राजनयिक कौंसली अधिकारी (अथवा एवं शुल्क) अधिनियम, 1948 (1948 का 41 वां), की धारा 2 के खंड (क) के अन्वय में केन्द्रीय सरकार एतद्वारा भारत का प्रधान कौंसलावास ओडेसा में निजी सहायक श्री अनिल कुमार को 5.5.1989 से कौंसली एजेंट का कार्य करने के लिए प्राधिकृत करती है।

[सं. टी. 4330/1/89]

जी. जगन्नाथन, उपसचिव (कौंसली)

S.O. 1959.—In pursuance of the clause (a) of Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorise Shri Anil Kumar Personnel Assistant in the Consulate General of India, Odessa to perform the duties of Consular Agent with effect from 5th May, 1989.

[No. T-4330/1/89]

G. JAGANNATHAN, Dy. Secy. (Consular)

उद्योग मंत्रालय

(कंपनी कार्य विभाग)

नई दिल्ली, 3 अगस्त, 1989

का.प्रा. 1960.—केन्द्रीय सरकार, कंपनी (केन्द्रीय सरकार) साधारण नियम और प्रकल्प, 1956 के नियम 5क के उपनियम (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, और भारत सरकार के कंपनी कार्य विभाग की अधिसूचना सं. का.प्रा. 4153, तारीख: 10 नवम्बर, 1967 को अधिकांत करते हुए, उन बातों के सिवाय जिन्हें ऐसे अधिकरण से पूर्व किया गया है या करने का लोप किया गया है, सहायक आय-कर प्रायश्चित्त सकल II (1), इन्दौर की कंपनी अधिनियम, 1956 (1956 का 1) की धारा 108 की उपधारा (1क) के खण्ड (क) के प्रयोजनों लिए निहित प्राधिकारी नियुक्त करती है।

[फा.सं. 3/37/87-सी एन-V]

यू.पी. माथुर, निदेशक

MINISTRY OF INDUSTRY

(Department of Company Affairs)

New Delhi, the 3rd August, 1989

S.O. 1960.—In exercise of the powers conferred by sub-rule (1) of rule 5A of the Companies (Central Government's) General Rules and Forms, 1956 and in supersession of the notification of the Government of India in the Department of Company Affairs, number S.O. 4153 dated the 10th November, 1967, except as respects things done or omitted to be done before such supersession, the Central Government hereby appoints the Assistant Commissioner of Income Tax, Circle II(1), Indore, as the prescribed authority for the purposes of clause (a) of sub-section (1A) of section 108 of the Companies Act, 1956 (1 of 1956).

[File No. 3/37/87-CL. VI]

U. P. MATHUR, Director

साख एवं नागरिक पूर्ति मंत्रालय

(साख विभाग)

नई दिल्ली, 24 जुलाई, 1989

का.प्रा. 1961.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 10 के उन नियम (4) के अन्वय में, साख और नागरिक पूर्ति मंत्रालय, साख विभाग के प्रयोजन निम्नलिखित कार्यालय [जिसके कर्मचारी बृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है] को अधिसूचित करती है:

भारतीय खाद्य निगम, आंचलिक कार्यालय, बम्बई

[संख्या ई-11017/10/89-हिंदी]

उ. र. कुर्वेकर, निदेशक (बीनी)

MINISTRY OF FOOD & CIVIL SUPPLIES

(Department of Food)

New Delhi, the 24th July, 1989

S.O. 1961.—In pursuance of sub-rule 4 of rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following office under the administrative control of the Ministry of Food & Civil Supplies (Department of Food), the staff whereof have acquired the working knowledge of Hindi:—

1. Food Corporation of India, Zonal Office, Bombay.

[No. E-11017/10/89-Hindi]

U. R. KURLEKAR, Director (Sugar)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

शुद्धि-पत्र

नई दिल्ली, 25 जुलाई, 1989

का.आ. 1962.—भारत सरकार के राजपत्र भाग 2, खंड 3, उप खंड (ii) दिनांक 11-10-1986 और 1-11-1986 का.आ. संख्या ओ 12016/28/82 मोड। का.आ. 3540 और 3731 दिनांक 11-10

1986 और 1-11-1986 पृष्ठ क्रमांक 4143, 4144 और 4351 पर प्रसिद्ध हुई अनुसूची में नीचे वर्णित किए हुए बदलो किया जाता है।

गांव : वाकसाई तहसील - मावल, जिला - पुना (महाराष्ट्र)

के लिये			पढ़ें		
खंभरा नम्बर	हिस्सा नम्बर	क्षेत्रफल हे.आर.	खंभरा नम्बर	हिस्सा नम्बर	क्षेत्रफल हे.आर.
14	2	0-06-84	14	2	0-06-34
17	2	0-04-86	17	2	0-04-86
17	4		17	4	
18	9		17	9	
133	1+2+3+4-बी	0-08-30	133	1+2+3+4	0-08-30
159	14	0 08 72	159	4	0-08-72

ए० आर० गांधी सक्षम अधिकारी,

बंबई-पुना पाईप लाईन्स प्रोजेक्ट

[O-12016/26/82-मोड.-II वित्त०]

सी० एल० गिरोट्रा, अवर सचिव

MINISTRY OF PETROLEUM & NATURAL GAS

ERRATUM

New Delhi, the 25th July, 1989

S.O. 1962.—For the words and figures appearing in Column II of the Notification issued under Government of India's Notification No. O-12016/26/82 Prod. I under S.O. No. 3540 and 3731 published in the Government of India, Gazette Part-II, Section 3, Sub-Section (ii) at pages 4144 and 4354 dated 11-10-86 and 1-11-86 read:

Village : Wakai Tahsil : Maval Dist. Pune.

For			Read		
S.No. G.No.	Hissa No.	Area	S.No. G.No.	Hissa No.	Area
14	2	00-06-84	14	2	00-06-34
17	2		17	2	
17	4	00-04-86	17	4	00-04-86
18	9		17	9	
133	1+2+3+4B	00 08-30	133	1+2+3+4	00 08-30
159	14	00-08-72	159	4	00-08-72

A.R. Gode, Competent Authority
Bombay Pune Pipeline Project (Pune,

[O/2016/26/82-P-cc-II/Dist.]

C. L. GIROTRA, Under Secy.

वस्त्र मंत्रालय

नई दिल्ली, 31 जुलाई, 1989

का.आ. 1963.—केन्द्रीय सरकार, केन्द्रीय रेशम बोर्ड अधिनियम, 1948 (1948 का 61वां) को धारा 7 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्री पी.एस.एस. थॉमस को 7 जुलाई, 1989 अपराह्न से अलग आदेश होने तक केन्द्रीय रेशम बोर्ड, बंगलूर के सचिव के रूप में नियुक्त करती है।

[फा.सं. 25012/8/89-सिल्क]

आर. चटर्जी, उप सचिव

MINISTRY OF TEXTILES

New Delhi, the 31st July, 1989

S.O. 1963.—In exercise of the powers conferred by Section 7 of Central Silk Board Act, 1948 (LXI of 1948), the Central Government is pleased to appoint Shri P.S.S. Thomas, as Secretary, Central Silk Board, Bangalore with effect from 7th July, 1989 (A. N.) until further orders.

[F. No. 25012/8/89-Silk]

R. CHATTERJEE, Dy. Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

नई दिल्ली, 21 जुलाई, 1989

का.प्रा. 1964:—केन्द्रीय सरकार, भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के पश्चात्, उक्त अधिनियम की प्रथम अनुसूची का निम्नलिखित और संशोधन करती है, अर्थात्:

उक्त अनुसूची में, मुम्बई विश्वविद्यालय से संबंधित प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टियां अंतःस्थापित की जाएंगी, अर्थात्:

“मुम्बई विश्वविद्यालय

मास्टर ऑफ़ सर्जरी (संत्रिकाणालय विज्ञान) एम.सो.एच. (संत्रिकाणालय विज्ञान)

टिप्पणी: उपरोक्त अर्हता तब मान्यताप्राप्त आयुर्विज्ञान अर्हता होगी जब वह (1) ग्रांट मेडिकल कालेज, मुम्बई; (2) सेठ जी.एस. मेडिकल कालेज, मुम्बई; (3) टी.एन. मेडिकल कालेज, मुम्बई; और (4) एल.टी.एम. मेडिकल कालेज, मायन, मुम्बई में 31 दिसम्बर, 1988 को या उसके पूर्व प्रशिक्षित विद्यार्थियों को मुम्बई विश्वविद्यालय द्वारा अनुदत्त की जाए।

[सं. बी० 11015/51/88-एम ई (पी)]

आर. श्रीनिवासन, अधर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

New Delhi, the 21st July, 1989

S.O. 1964.—In exercise of the powers conferred by sub-section (2) of section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely :—

In the said Schedule, after the entries relating to the University of Bombay, the following entries shall be inserted, namely :—

“University of Bombay

Master of Surgery (Neuro-Surgery) M. Ch. (Neuro-Surgery).

Note :—The above qualification shall be recognised medical qualification when granted by the University of Bombay to the students trained at : (1) Grant Medical College, Bombay; (2) Seth G. S. Medical College, Bombay; (3) T. N. Medical College, Bombay and (4) L. T. M. Medical College, Sion, Bombay on or before 31st December, 1988.”

[No. V. 11015/51/88-ME (P)]

R. SRINIVASAN, Under Secy.

कृषि मंत्रालय

(कृषि और सहकारिता विभाग)

नई दिल्ली, 21 जुलाई, 1989

का.प्रा. 1965:—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम 4 के अनुसरण में एतद्द्वारा कृषि मंत्रालय (कृषि और सहकारिता विभाग)

के निम्नलिखित कार्यालय को, जिसके कर्मचारियों ने हिन्दी का कार्यवाहक ज्ञान प्राप्त कर लिया है, अधिभूषित करती है:

1. चावल विकास निदेशालय,
191, पाटलोपुत्र कालोनी,
पटना-800013

[सं. 3-24/86-हि.नी.]

जगदीश प्रसाद, निदेशक (रा.भा.)

MINISTRY OF AGRICULTURE

(Department of Agriculture & Co-operation)

New Delhi, the 21st July, 1989

S.O. 1965.—In pursuance of sub rule 4 of rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976, the Central Govt. hereby notify the following office of the Ministry of Agriculture (Department of Agriculture & Co-operation), the staff whereof have acquired the working knowledge of Hindi :—

1. Directorate of Rice Development,
191 Patliputra Colony,
Patna-800 013.

[No. 3-24/86-Hindi Neeti]

JAGDISH PRASAD, Director (O. L.)

मानव संसाधन विकास मंत्रालय

(संस्कृति विभाग)

नई दिल्ली, 27 जुलाई, 1989

का.प्रा. 1966:—चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 9 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार भारतीय पुरातत्व सर्वेक्षण, कलकत्ता के अधीक्षण पुरातत्वविद, डा. एस.एस. विश्वास को, केन्द्रीय फिल्म प्रमाणन, बोर्ड, कलकत्ता में भी क्षेत्रीय अधिकारी के रूप में कार्य करने के लिए, 27-7-89 से अगले आदेशों तक नियुक्त करती है।

[सं. 801/6/89-एफ.सी.]

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Culture)

New Delhi, the 27th July, 1989

S.O. 1966.—In exercise of the powers conferred by Sub-Section (4) of the Section 5 of the Cinematograph Act, 1952 (37 of 1952), read with Rule 9 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint Dr. S. S. Biswas, Superintending Archaeologist, Archaeological Survey of India, Calcutta to also function as Regional Officer, Central Board, of Film Certification, Calcutta with effect from 27-7-1989, until further orders.

[No. 801/6/89-FC]

नई दिल्ली, 21 जुलाई, 1989

का.प्रा. 1967:—चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 9 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37), की धारा 5 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार भारतीय पुरातत्व सर्वेक्षण, हैबराबाद के अधीक्षक पुरातत्वविद,

श्री ए. पी. सागर को केन्द्रिय फिल्म प्रमाणन बोर्ड, हैदराबाद के अपर क्षेत्रीय अधिकारी के पद का कार्यभार उस तारीख से भगले भादेशों तक सौंपती है, जिन तारीख को केन्द्रिय फिल्म प्रमाणन बोर्ड, हैदराबाद की अपर क्षेत्रीय अधिकारी, श्रीमती के. रत्नप्रभा उन्हें अपने पद का कार्यभार सौंप देंगी।

[मं. 801/7/89-एक.सा.]

अंशु वैश्य, उप सचिव

New Delhi, the 21st July, 1989

S.O. 1967.—In exercise of the powers conferred by sub-Section (ii) of Section 5 of the Cinematograph Act, 1952 (37 of 1952), read with Rule 9 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to assign the duties of Additional Regional Officer, Central Board of Film Certification at Hyderabad to Shri A. P. Sagar, Superintending Archaeologist, Archaeological Survey of India, Hyderabad, with effect from the date Smt. K. Ratnaprabha, hands over her charge as Addl. R. O. C.B.F.C. Hyderabad to him, until further orders.

[No. 801/7/87-PC]

ANSHU VAISH, Dv. Secy.

जल-भूतल परिवहन मंत्रालय

(अम प्रमाण)

नई दिल्ली, 27 जुलाई, 1989

का.प्र. 1968.—यतः डाक वर्कर्स (रोजगार का विनियम) अधिनियम, 1948 (1948 का 9) की धारा 4 की उपधारा (1) द्वारा यथाप्रेक्षित कलकत्ता डाक लिपिकीय और पर्यवेक्षीय कामगार (रोजगार विनियम) स्कीम, 1970 भारत सरकार, जल-भूतल परिवहन मंत्रालय (परिवहन पक्ष) को अधिसूचना संख्या का.प्र. 923 दिनांक 3 अप्रैल, 1989 के तहत भारत के दिनांक 29 अप्रैल, 1989 के राजपत्र के भाग 2 खण्ड 3, उप खण्ड (ii) में प्रकाशित की गई थी जिसमें सरकारी राजपत्र में उक्त अधिसूचना के प्रकाशित होने की तारीख से 45 दिन की अवधि के अंदर ऐसे सभी व्यक्तियों से जिनका उससे प्रभावित होने की संभावना है, आपत्तियां और सुझाव आमंत्रित किए गए थे।

और चूंकि उक्त राजपत्र की प्रतियां 23 मई, 1989 को जनता को सुलभ कराई गई थी,

और चूंकि उक्त प्रारूप पर जनता से प्राप्त आपत्तियों एवं सुझावों पर केन्द्रीय सरकार द्वारा विचार किया गया है,

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 4 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा निम्नलिखित स्कीम बनाती है, अर्थात् :

स्कीम

1. (1) इस स्कीम का नाम कलकत्ता डाक लिपिकीय और पर्यवेक्षीय कामगार (रोजगार का विनियम) (संशोधन स्कीम, 1989) होगा।

(2) यह राजकीय राजपत्र में इसके अन्तिम प्रकाशन की तारीख से प्रचलित होगी।

2. कलकत्ता डाक लिपिकीय और पर्यवेक्षी वर्कर्स (रोजगार का विनियम) स्कीम, 1970 में खण्ड (6) की उपधारा (1) के नीचे निम्नलिखित मध (ब) जोड़ी जाए अर्थात् :

“(ब) डाक लेबर बोर्ड के वित्तीय संसाधनों को बढ़ाने के विचार से स्ट्रेटिजिक तथा इससे संबंधित अन्य कार्य अथवा आनुवंशिक कार्यों जैसे वाणिज्यिक क्रियाकलाप करना।

[फा.सं. एल बी-13013/15/88-एल-4 (2)]

MINISTRY OF SURFACE TRANSPORT

(Labour Division)

New Delhi, the 27th July, 1989

S.O. 1968.—Whereas draft of a scheme to amend the Calcutta Dock Clerical and Supervisory Workers (Regulation of Employment) Scheme, 1970 was published, as required by sub-section (1) of Section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (19 of 1948) with the notification of the Government of India in the Ministry of Surface Transport (Transport Wing) No. S.O. 923 dated the 3rd April, 1989 in the Gazette of India, Part II, Section 3 sub-section (ii) dated the 29th April, 1989, inviting objections and suggestions from all persons likely to be affected thereby within a period of 45 days from the date of publication of the said notification in the Official Gazette;

And whereas copies of the said Gazette were made available to the public on the 23rd May, 1989;

And whereas objections and suggestions received from the public on the said draft have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the said Act, the Central Government hereby makes the following Scheme, namely :—

SCHEME

1. (1) This Scheme may be called the Calcutta Dock Clerical and Supervisory Workers (Regulation of Employment) Amendment Scheme, 1989.

(2) It shall come into force on the date of its final publication in the Official Gazette.

2. In the Calcutta Dock Clerical and Supervisory Workers (Regulation of Employment) Scheme, 1970, under sub-clause (1) of clause 6, the following may be added as item (n). :—

“(n) undertaking commercial activities like stevedoring and any other work connected therewith or incidental thereto with the view to augment the financial resources of Dock Labour Board”.

[F. No. LB-13013/15/88-L.IV(iii)]

का. प्र. 1969—जबकि डाक वर्कर्स (रोजगार का विनियम) अधिनियम, 1948 (1948 का 9वां) की धारा 4 की उपधारा (1) द्वारा यथाप्रेक्षित कलकत्ता डाक कामगार (रोजगार का विनियम) स्कीम, 1970, जल-भूतल परिवहन मंत्रालय (परिवहन पक्ष) को अधिसूचना सं. का.प्र. 922 दिनांक 3 अप्रैल, 1989 के तहत भारत के दिनांक 29 अप्रैल, 1989 के राजपत्र के भाग 2 खण्ड 3, उप खण्ड (ii) में प्रकाशित की गई थी जिसमें सरकारी राजपत्र में उक्त अधिसूचना के प्रकाशित होने की तारीख से 45 दिन की अवधि के अंदर ऐसे सभी व्यक्तियों से जिनका उससे प्रभावित होने की संभावना है, आपत्तियां और सुझाव आमंत्रित किए गए थे।

और जबकि उक्त राजपत्र की प्रतियां 23 मई, 1989 को जनता को सुलभ कराई गई थी,

और जबकि उक्त प्रारूप पर जनता से प्राप्त आपत्तियों एवं सुझावों पर केन्द्रीय सरकार द्वारा विचार किया गया है,

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा निम्नलिखित स्कीम बनाती है, अर्थात् :

स्कीम

1. (1) इस स्कीम का नाम कलकत्ता डॉक कामगार (राजगार का विनियम) संशोधन स्कीम, 1989 होगा।

(2) यह राजकोष राजपत्र में इसी तिथि प्रकाशन को तारीख से प्रवृत्त होगा।

2. कलकत्ता डॉक वर्कर्स (राजगार का विनियम) स्कीम, 1970 में धारा 7 की उप-धारा (1) में सर (ड) के बाद निम्नलिखित मद जोड़ी जाए प्रयत्नः—

“(क) डॉक लेबर बोर्ड के विन्यास समझौतों का बर्तन के विचार से स्टाबिलाइजिंग तथा इसमें संशोधन प्रत्येक कार्य प्रथम आनुवंशिक कार्यों जैसे वार्गिज्यक क्रिया-कलाप करना।”

[फा. सं. एल बी-13013/15/88-एल-4(2)]

जी. व. कर्नलिंगम, निदेशक

S.O. 1969.—Whereas draft of a scheme to amend the Calcutta Dock Workers (Regulation of Employment) Scheme, 1970 was published, as required by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), with the notification of the Government of India in the Ministry of Surface Transport (Transport Wing) No. S.O. 922, dated the 3rd April, 1989 in the Gazette of India, Part II, Section 3 sub-section (ii) dated the 29th April, 1989, inviting objections and suggestions from all persons likely to be affected thereby within a period of 45 days from the date of publication of the said notification in the Official Gazette;

And whereas copies of the said Gazette were made available to the public on the 23rd May, 1989;

And whereas objections and suggestions received from the public on the said draft have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the said Act, the Central Government hereby makes the following Scheme, namely:—

SCHEME

1. (1) This Scheme may be called the Calcutta Dock Workers (Regulation of Employment) Amendment Scheme, 1989.

(2) It shall come into force on the date of its final publication in the Official Gazette.

2. In the Calcutta Dock Workers (Regulation of Employment) Scheme, 1970, in sub-clause (1) of clause 7, after item (m), the following item shall be inserted, namely:

“(n) undertaking commercial activities like stevedoring any other work connected therewith or incidental thereto with the view to augment the financial resources of Dock Labour Board.”

[File No. LB-13013/15/88-LIV(ii)]

V. SANKARALINGAM, Director

श्रम मंत्रालय

नई दिल्ली, 17 जुलाई, 1989

क. प्र. 1970—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, बैंक आफ मद्रास समिति के प्रबंधन के संबंध नियोजकों और उनके कर्मचारियों के बीच,

अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रबंधन, मद्रास के पंचाट को प्रकाशन करती है।

MINISTRY OF LABOUR

New Delhi, the 17th July, 1989

S.O. 1970.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Madras as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bank of Madura Ltd. and their workman.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMILNADU, MADRAS

Monday, the 9th day of January, 1989

PRESENT:

Thiru K. Natarajan, M.A., B.L., Industrial Tribunal,

Industrial Dispute No. 78/85

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the Management of Bank of Madura Ltd. Madras-2.)

BETWEEN

Thiru M. Murugappan,
Meenakshi Illam, Muthupattinam,
IV Street, Kankkudi-623001.

AND

The Chairman,
Bank of Madura Ltd.,
758, Anna Malai, Madras-600002.

Reference:

Order No. L-12012/69/84-D.IV(A), dated Nil, of the Ministry of Labour, Government of India, New Delhi.

This dispute coming on for final hearing on Monday, the 26th day of September, 1988 upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiru V. Prakash for Tvl. Row and Reddy, Advocates appearing for workman and of Thiruvalaragal S. Jayaraman and M. R. Raghavan, Advocates appearing for the Management and this dispute having stood over till this day for consideration, this Tribunal made the following:

AWARD

This dispute between the workman and the management of Bank of Madura Limited, Madras-2 arises out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its Order No. L-12012/69/84-D.IV(A), dated Nil of the Ministry of Labour, for adjudication of the following issue:

“Whether the action of the Management of Bank of Madura Ltd., Madras in terminating the services of Shri M. Murugappan, Clerk with effect from 17-7-82 and ignoring his claim for re-employment in the service of the Bank is justified? If not, to what relief the workman is entitled to?”

2. The Petitioner averments in the claim statement are that the Petitioner was employed as a clerk in the various branches of the Management between 28-8-1978 and 17-7-82 in all for 641 days. According to para 20.12 of the Bi-partite Settlement, temporary workmen are entitled to preference when the Bank fills up permanent vacancies and if selected

they have to undergo probation. The Bank though opened a number of branches between 1978 and 1982 and appointed persons on a permanent basis, the petitioner was not considered which is contrary to Bipartite Settlement. After 17-7-1982 the petitioner was not given any employment in the Bank in spite of number of personal representations and also in writing to the Bank stating that his services had been illegally terminated and new clerks were being recruited. Since there was no reply, the petitioner approached the Assistant Labour Commissioner to conciliate the matter. The Respondent-Management though admitted that vacancies arose they had filled up by advertisement, stated that the petitioner was only a casual employee and he had not worked 240 days. The petitioner is entitled to preference under Section 25G of the Industrial Disputes Act. He was being employed whenever the permanent employees went on leave on there was increase in work and hence the question of his being employed casually does not arise. There was no reason for the Petitioner who had worked with the Bank for 4 years between 1978 and 1982 suddenly stay away from 18-7-1982. The allegation of the Bank for the first time in their letter dated 18-6-1983 that he stayed away from duty is not true. The conciliation since failed, the reference has been made to this Tribunal. The petitioner states that in case of one Vasudevan who had employed temporarily was given a job on permanent basis by reason of the award passed by this Tribunal. The Respondent-Bank is given to the practice of employing a large number of people temporarily or as Apprentice Clerk and getting permanent work done by them and pay them low salaries and deny them the benefits of permanent employees in the Bank. The bank instead of absorbing him permanently has illegally terminated his service which is also contrary to Section 25F of the Industrial Disputes Act as no retrenchment compensation and notice pay was given. The Bank is bound to give preference while filling up permanent vacancies as per para 20.12 of the Bipartite Settlement. The non-absorption of the Petitioner even after 4 years is only an act of unfair labour practice.

3. The Respondent-Bank in their counter statement states that the reference itself is bad in law which proceeds on the basis that there had been termination of service on 17-7-1982 and that the Management had ignored his claim for reinstatement. The Petitioner was engaged as a casual worker off and on from the years 1978 to 1982 whenever exigencies arose. He was engaged purely on casual basis and was paid wages for the days he worked then and there by means of vouchers. He was engaged for 41 days on casual basis in the year 1978; for 155 days in 1976; for 148 days in the year 1980; for 203 days in the year 1981 and for 94 days in the year 1982. The Petitioner had never worked for more than 240 days in any one of these years or immediately preceding the 12 calendar months from the date of alleged non-employment. The Respondent-Bank thereafter advertised for the post of clerks and selected candidates by holding written test. The Petitioner did not respond to the advertisement and having failed to compete with the other people by responding to the advertisement and taking part in the written test the Petitioner cannot seek employment by raising this dispute. He is not eligible to claim any benefits under the Industrial Disputes Act since he had not put in 240 days. The Respondent-Management further states that the Petitioner was not continued to be engaged in the Bank since no exigencies arose. The Petitioner was merely a casual worker and since there was no exigency to engage casual workers after the recruitment of clerks he was not continued to be engaged. There is no question of violation of any provisions of the Bipartite Settlement. The provision of Bipartite Settlement does not contemplate that the employees who are in the cadre of the Petitioner should be made permanent. The provisions of Section 25-G for retrenchment does not apply in this case. There is no violation of Section 25-N of the Industrial Disputes Act since the question of retrenchment does not arise in this case. In any case this is not a case of retrenchment and therefore non-compliance with the provisions i.e., payment of retrenchment compensation by the Management will not arise. Hence the claim may be rejected.

4. The point for consideration is whether the action of the management in terminating the services of Shri M. Murugappan, Clerk with effect from 17-7-1982 and ignoring his claim for re-employment in the service of the Bank is justified? If not, to what relief the workman is entitled to?

5. On behalf of Petitioner Exs. W-1 to W-9 were marked. Exs. M-1 to M-5 were marked on the side of the Respondent-Bank. No oral evidence was adduced on either side.

6. The facts in this case that the Petitioner worked under the Respondent-Bank for various dates during 1978, 1979, 1980, 1981 and 1982 as a temporary clerk are not disputed. According to the Petitioner, when he worked between 28-8-78 and 17-7-1982 for 641 days as per provisions of Bipartite Settlement, the temporary workmen are entitled to the preference when the Bank fills permanent vacancies. But on the other hand, the contention of the Respondent-Bank is that the Petitioner did not work for 641 days as alleged and he worked piece meal in each year and in all only for less than 240 days and therefore the Petitioner cannot invoke provisions of Bipartite Settlement or any other benefits under the Industrial Disputes Act. It is also the plea of the Respondent that the Petitioner was employed as and when exigencies arose in the Bank and was only a casual employee and therefore when exigency did not arise he was not considered for the post. In other words, the contention is that the Petitioner was only under contract of employment; so long as the service of the Petitioner was not required he was not considered for any regular vacancy. It is also the case of the Respondent that as per Exs. M-4 and M-5, applications were called for the post of clerks and the Petitioner ought to have applied for the same and got selected. As regards the contention of the Petitioner that he worked for 641 days there is no material placed before this Tribunal by the Petitioner to substantiate his claim except alleging in the claim statement. The Petitioner has also not gone into the box to speak to this fact. On the other hand, the Respondent-Management relied on Ex. M-2, a letter written by the Petitioner himself to the Regional Labour Commissioner, wherein he enclosed a statement showing the periods that he worked. Though it is stated therein the total number of working days were 641, it has been conceded by the learned counsel for the Petitioner that he had not worked for 240 days continuously. Therefore the plea of the Petitioner that on the basis that he had worked beyond 240 days and therefore he is entitled to the benefits of the provisions of the Industrial Disputes Act does not at all arise. Therefore the contention of the learned counsel for the Petitioner that the Respondent-Management violated the conditions mentioned in Section 25-F precedent to retrenchment cannot be accepted. At this stage, the learned counsel for the Respondent-Management urged that Section 2(oo)(bb) has been attracted since the termination of service of the workman is as a result of non-renewal of contract of employment. The case of the Respondent is the Petitioner was employed as a casual employee on the basis of contract of employment and therefore he would come under the category 2(oo)(bb) which states that it would not amount to retrenchment. Whatever it may be the Petitioner having conceded that he had not worked for 240 days continuously he cannot invoke the benefits conferred under the Industrial Disputes Act. Having found that he is not eligible to claim benefits under the Industrial Disputes Act by reason of retrenchment, the question now would arise whether as a casual employee as alleged by the Respondent-Management would he be entitled to invoke the provisions of Bipartite Settlement has not been marked, the provisions relied on by the Petitioner under the Bipartite Settlement has been set out in Ex. W-5. Ex. W-5 is a letter dated 2-4-1983 written by the Petitioner to the Assistant Labour Commissioner (Central) Madras bringing to his notice about the provisions of Bipartite Settlement and contending that the retrenchment by the Bank is not justified. To this letter, a reply was sent to the Assistant Labour Commissioner (Central), Madras by the Respondent-Bank under Ex. W-6. Under that letter, the Bank does not dispute the provisions of Bipartite Settlement but would only contend since the Petitioner worked below 240 days in each of the years from 1978 to 1982 and that too on a casual basis he cannot claim the benefits of Bipartite Settlement. He would also state the Petitioner was not entitled to claim appointment under policy of the Bank because his close relative has been employed. Admittedly, the provisions under the Bipartite Settlement relied on by the Petitioner are not denied by the Respondent Bank in Ex. W-6. In this connection, the definition of temporary employee mentioned in the Bipartite Settlement para 20.7 is as follows:

"Temporary employees will mean a workman who has been appointed for a limited period for work which is of an essentially temporary nature or who is employed temporarily as an additional workman. In connection with a temporary increase in the work of the permanent nature and includes the workman, other than the permanent workman who is appointed in a temporary vacancy caused by the absence of the particular permanent workman."

Para 20.12 of the Bipartite Settlement is as follows:

"Other thing being equal temporary workmen (other than godown keeper) will be given preference for filling permanent vacancies and if selected they may have to undergo probation."

It is seen from the above provisions that in the absence of any reference or definition regarding casual employee or casual worker, petitioner has to be treated as a temporary employee in the services of the Bank. It is also not the case of the Respondent that the casual employee will not be treated as temporary employee and there is lot of distinction between casual employee and temporary employee. In short, it is not the case of the Respondent that there is difference between the nomenclature of casual employee and temporary employee. It is also not brought to the notice that the Industrial Dispute Act contains the definition as to who is a casual worker and temporary worker. In the absence of the same, the respondent though admitting that he has been employed as a casual employee, he can be treated only as temporary employee as per the provisions of the Bipartite Settlement. A reading of para 20.7 of the Bipartite Settlement clearly shows the Petitioner has been appointed in the temporary vacancy caused by the absence of the permanent workman and for a limited period. Para 20.12 says when other thing being equal the temporary workman (other than the godown keeper) will be given preference for filling permanent vacancies and if selected they may have to undergo probation.

7. At this stage, it is pointed out by the learned counsel for the Petitioner-workman that the Respondent-Bank has given a go by to these provisions and the Bipartite Settlement has been made a nugatory. Of course, the contention of the learned counsel for the Respondent is that he being an employee worked below 240 days he would not be attracted for the benefits of Bipartite Settlement or the relief under the Industrial Disputes Act. As regards Bipartite Settlement it has not been pointed out by the learned counsel for the Respondent that the provisions would not apply to a worker who worked below 240 days or for a casual worker. Hence one has necessarily to accept the contention of the Petitioner that he having been employed temporarily caused by the vacancy in a permanent workman he would be entitled to invoke the provisions of Bipartite Settlement. It is significant to note that from 1978 till 1982 when the Petitioner was dispensed with the services, fortyone branches have been opened in various places and persons have been appointed as clerks from outside. The Petitioner has given the particulars of branches opened in each year and persons appointed in Ex. W-5. It is not in dispute that from 1978 to 1982, the branches were opened and outsiders have been appointed in spite of the fact the Petitioner was in service either temporary or casual. The learned counsel for the Respondent-Bank would contend that for regular vacancies applications were called for under Exs. M-4 and M-5 and candidates have been selected after holding written test. It is urged the Petitioner since only a casual employee ought to have applied as per advertisement and competed with other candidates and he having failed to do so he cannot now question the appointments nor stake his claim for absorption in the permanent vacancy. His contention though appears to be sound it is completely forgotten by the learned counsel for the Respondent that Bipartite Settlement which provides preference for temporary workmen while filling up permanent vacancies has not been considered. The learned counsel for the Petitioner also drew my attention to Rule 77 and 78 of the Industrial Disputes (Central) Rules, 1957. Rule 77 says, the employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in that category and cause a

copy thereof to be posted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment. Rule 78 provides at least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details of those vacancies and shall give intimation of those vacancies by registered post to every one of all the retrenched workmen eligible to be considered therefor, to the address given by him at the time of retrenchment or at any time thereafter. Any way, apart from Rules 77 and 78 of the Industrial Disputes (Central) Rules, Para 20.12 of the Bipartite Settlement provides preference for the temporary workmen. Thus it is seen before filling up the permanent vacancies, the Petitioner was not at all considered as contained in para 20.12 of the Bipartite Settlement. It is not the case of the Respondent that Petitioner was not in employment whether temporary or casual on the relevant date when the application was called for and posts were filled up. In the light of the Bipartite Settlement, it is absolutely unnecessary that the Petitioner should apply for the post as contended by the Respondent-Bank. It would only appear and as rightly pointed out by the learned counsel for the Petitioner that the Respondent-Bank adopted unfair labour practice and against the provisions of Bipartite Settlement in not considering the Petitioner in a permanent vacancy and thereby circumvented the enactment.

8. Of course, a plea was raised by the learned counsel for the Respondent that as a policy of the Bank the Petitioner is not entitled to claim appointment under the Bank because his close relative (i.e.) his sister by name one Thirumathi Meena was employed as an award staff. This fact has been referred to in Ex. W-6 letter dated 18-6-1983 addressed by the Respondent-Bank to the Assistant Labour Commissioner (Central), Madras. Except alleging in the letter no material or evidence has been placed before this Tribunal. Any way for all these reasons, it has to be found that the Respondent-Bank is not justified in ignoring the claim of the Petitioner for re-employment in the services of the Bank. Hence this point is found in favour of the Petitioner.

9. Coming to relief, the Petitioner is entitled to wages only from the date when he gets appointment and not from the date he has been retrenched or terminated from service (i.e.) 18-7-1982.

10. In the result, an award is passed directing re-employment of the Petitioner Thiru M. Murugappan permanently without back wages. He should be re-employed on or before one month from the date of publication of this award. There will be no order as to costs.

Dated, this 9th day of January, 1989.

Witnesses Examined:

For both sides: None.

Documents Marked:

For workman:

- Ex. W-1/23-4-79—Conduct Certificate issued to the workman (copy).
- Ex. W-2/13-9-82—Letter from workman to the Management stating about the illegal termination (copy).
- Ex. W-3/13-12-82—Workman's letter to the Regional Labour Commissioner, Madras-6 (copy).
- Ex. W-4/22-3-83—Management's letter to the Regional Labour Commissioner, Madras-6 (copy).
- Ex. W-5/2-4-83—Workman's letter to the Regional Labour Commissioner, Madras-6 (copy).
- Ex. W-6/18-6-83—Management's letter to the A.C.L. stating that the workman had stayed away from 18-7-82 (copy).
- Ex. W-7/31-10-83—Award of the Industrial Tribunal in I.D. 14/83 (copy).

Ex. W-8/30-11-84—Failure of conciliation report (copy).

Ex. W-9/-—Paper cutting in "The Hindu", dated 30-4-88 showing invitation of application for recruitment of clerks.

For Management :

Ex. M-1/5-1-83—Letter from Chief Officer to Asst. Labour Commissioner (Central).

Ex. M-2/2-2-83—Letter from M. Murugappan to Regional Labour Commissioner (copy).

Ex. M-3/20-6-83—Minutes of conciliation proceedings (copy).

M-4—Paper cutting showing applications are invited for recruitment of clerks.

Ex. M-5/ -do-

Sd./- Illegible, Industrial Tribunal

[No L-12012/6/84-D.IV(A)] [IR(Bank.I)]

का.अ. 1971—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार, गुनाइटेड इंडिया इश्योरेंस कंपनी लि., के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बम्बई के प्रावधानों को प्रकाशित करता है।

S.O. 1971.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), of the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of United India Insurance Co. Ltd. and their workman.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

PRESENT :

Shri P. D. Apshankar

Presiding Officer

Reference No. CGIT-2/17 of 1987

PARTIES :

Employers in relation to the management of United India Insurance Company Ltd.

AND

Their Workman

Smt. Sucheta Shashikant Kulkarni

INDUSTRY : Insurance.

STATE : Maharashtra.

Bombay, the 10th June, 1988

AWARD

The Central Government by their Order No. L-17012/16/86-D.IV(A) dated 17-3-1987 has referred the industrial dispute between the management of United India Insurance Company Limited, Nagpur and its workman for adjudication to this Tribunal under Section 10(1)(d) of the Industrial Disputes Act, 1947. The point to be adjudicated upon is thus :—

"Whether the action of the management of Divisional Manager, United India Insurance Co. Ltd. Nagpur, in relation to Nandura Branch in terminating the services of Smt. S. S. Kulkarni Clerk cum-Cashier w.e.f. 1-1-1986 is justified? If not, to what relief is the workman entitled?"

2. The case of the workman Smt. Sucheta Shashikant Kulkarni, who belongs to the Union of the said Insurance Company, in short is thus :—

She was employed by the management of the above said Insurance Company from March, 1983 to December, 1985 as an Assistant (Clerk-Typist) on daily wages in the Branch Office at Gondia. During the said period she was paid daily wages ranging from Rs. 10 to Rs. 20 per day. During the above said period, she had made representations to the management for regularisation of her service, as her work was found satisfactory by the said company. In spite of her representations, the said company orally terminated her services with effect from 1-1-1986. Thereafter she referred the matter to the Assistant Labour Commissioner (C), but the conciliation proceedings failed. She then filed the claim statement before this Tribunal requesting the Tribunal to direct the management of the above said Insurance Company to regularise her service retrospectively and treat her as a confirmed employee, also pay her all necessary wages.

3. The above said Insurance Company filed its written statement, and in substance contends thus :—

It is not true that the above said lady Smt. Kulkarni was employed as an Assistant (Clerk-Typist) on daily wages basis during the above said period. No letter of employment was issued by the company to her. She was never on the pay-roll of the company and was not paid any amount as salary. She had worked in the company as a casual-hand on contractual basis. She was paid wages ranging from Rs. 10 to Rs. 20 during the period from 1983 to 1985. No relationship of employer and employee existed between the said company and the said lady. As such no industrial dispute existed between the parties. The company was at liberty to terminate the work of the said lady at any time without giving her any notice. Hence the said company finally requested for the dismissal of the parent reference.

4. Pending this reference before this Tribunal, the above said parties filed an application for disposal of the parent reference on the ground that they have mutually settled the matter. They lady Sou. S. S. Kulkarni and the Regional Manager of the Company executed a document on stamp paper embodying the following terms and conditions therein.

"The first party i.e. the said lady shall withdraw her present reference and the industrial dispute unconditionally.

The second party i.e. the said Insurance Company shall offer fresh appointment to the first party as Typist on probation in Branch Gondia, which shall commence from the date of written acceptance of the offer by the first party. Appointment shall be on probation for a period of six months.

The first party shall not claim any back wages or continuity of service in respect of the present dispute. The first party shall be entitled to the pay in the prescribed scale applicable to her from the date of her appointment."

5. The above said lady also filed an affidavit before this Tribunal sworn in before the Civil Judge, J. D. & J.M.F.C., Gondia (Ex. B) stating that she does not wish to proceed with the present reference, and she be allowed to withdraw her claim against the Insurance Company and that the reference be dismissed on the ground that the claim has been withdrawn by her. As stated above, the lady has been re-appointed by the said Insurance Company and as she has filed the affidavit Ex. B stating that she does not wish to prosecute her claim, the reference must be and is disposed of for want of prosecution.

Award accordingly.

P. D. APSHANKAR, Presiding Officer

[No. L-17012/16/86-D.IV(A)] [IR(Bank-I)]

का.प्र. 1972—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14 की धारा 17 के अनुसार) में केन्द्रीय सरकार अधिलेख माकेन्टाइल बैंक लि., कलकत्ता के प्रबंधक के संबंध नियोक्ता और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार अध्यागत अधिनियम, 1947 के अन्तर्गत का प्रशासित करता है।

S.O. 1972.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta, as shown in the Annexure in industrial dispute between the employers in relation to the Tamil Nadu Mercantile Bank, Ltd. Calcutta and their workman.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA

Reference No. 147 of 1988

PARTIES :

Employers in relation to the management of Tamil Nadu Mercantile Bank Ltd., Calcutta.

AND

Their workman

PRESENT :

Mr. Justice Sukumar Chakravarty, Presiding Officer.

APPEARANCES :

On behalf of Employer : Mr. S. Pandian, Law Officer of the Bank.

On behalf of workmen : Mr. Rajan Nagar, President of the Union.

STATE : West Bengal

INDUSTRY : Banking

AWARD

By Order No. L-12012/93/87-D.LV(A) dated 21st March, 1988, the Government of India, Ministry of Labour referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Tamil Nadu Mercantile Bank Ltd., Calcutta in withdrawing the special allowance of Rs. 173/- payable to Shri H. N. Mishra, Driver-cum-Peon of the bank with effect from August, 1986 is justified; if not, to what relief is the concerned workman entitled ?"

2. When the case is called out today, both sides draw my attention to the Joint Petition of Compromise filed on 10-11-1988 by the parties. Both sides pray for an award in terms of the Joint Petition of Compromise. Considered the said petition as well as the submissions of the parties. The terms of the Joint Petition of Compromise appear to be fair, reasonable and in the interest of the parties. I, therefore, accept the same and pass an 'Award' in terms of the said petition of compromise which do form part of this Award as Annexure 'A'.

This is my Award.

Dated, Calcutta,

The 15th November, 1988.

SUKUMAR CHAKRAVARTY, Presiding Officer
[No. 1-12012/93/87-D.IV(A)/I.R.(Bank)]

ANNEXURE 'A'

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL 20, ABDUL HAMID STREET, CALCUTTA-
70006

In the matter of

Reference No. 147/1988

AND

In the matter of

An industrial dispute under the Government of India (Ministry of Labour). Order of Ref. No. L-12012/93/87-D/IV(A) dated 21st March, 1988.

BETWEEN

M/s. Tamil Nadu Mercantile Bank Ltd., 58-D Netaji Subhash Road, Calcutta-1—Employer.

AND

Their workmen represented by Tamil Nadu Mercantile Bank Employee Union, 20, Strand Road, Calcutta-1.

The Humble Joint Petition on Behalf of the Parties above named.

Most Respectfully Sheweth :

1. That the matter in dispute as referred in the Order of reference has been amicably settled between the parties.

2. That the terms of amicable settlement are as under :

(a) The employer bank will pay and the workman concerned Shri H. N. Mishra driver-cum-peon will receive a sum of Rs. 5,575/- (Rupees five thousand five hundred twenty five only) in full and final settlement of his claim of special allowance for the period from August 1986 till April 1988.

(b) In addition to the above, the employer shall deduct (Rs. 391/- (Rupees three hundred ninety one only) on account of employees' contribution to Provident Fund, as admissible, of this payment and shall pay the equal amount towards the employers contribution to Provident Fund on this payment and both the amounts shall be deposited to Employees' Provident Fund Account, being maintained by the employer, within 10 days of such deduction.

(c) The amount mentioned in para (a) above will be paid by the Bank to the workman immediately after the Hon'ble Tribunal approves this petition of compromise.

(d) After the payment as above the workman Shri H. N. Mishra will not have any claim whatsoever in this regard against the Bank.

3. That in view of the amicable settlement as above, the parties do not desire to proceed any further in the matter.

In these circumstances it is humbly prayed that your Lordship may kindly be pleased to approve the above terms of amicable settlement and to dispose off the reference by passing an Award in terms of this Joint Petition of Compromise.

And for this act of finality, your petitioners as in duty bound shall ever pray.

Dated, the 10th November, 1988.

for Tamil Nadu Mercantile Bank Ltd.

(P. Ramachandran)

Manager

For Tamil Nadu Mercantile Bank Employees' Union

(Rajan Nagar)

President

(N. Sermathi Pandian)

Law Officer.

(Kamlesh Mukherjee)

General Secretary

(H. N. Mishra)

Concerned workmen.

का.प्र. 1973.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, वस्य बैंक समिति, अहमदाबाद के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अन्तर्ध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचद को प्रकाशित करती है।

S.O. 1973.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Vysya Bank Ltd. and their workman.

ANNEXURE

BEFORE SHRI A. N. RAM, INDUSTRIAL TRIBUNAL, AHMEDABAD

Ref. (ITC) No. 20 of 89

ADJUDICATION

BETWEEN

M/s. Vysya Bank Ltd., Ahmedabad.

AND

The workmen employed under it.

In the matter of termination of services of Shri Shankerbai B. Damore.

APPEARANCES :

Shri B. R. Dhar, Manager, for the Bank.

Shri Rajesh R. Patal Advocate with the workman—for the second party.

AWARD

An industrial dispute between Vysya Bank Ltd., Ahmedabad and the workmen employed under it was referred for adjudication to the Industrial Tribunal, Ahmedabad under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), by the Govt. of India, Ministry of Labour, New Delhi by an Order No. L-12012/2/89 IR (Bank) dt. 16th Feb., 1989. The matter was allotted to this Tribunal by the President, Industrial Court, Ahmedabad. The dispute pertains to the termination of services of one Shri Shankerbhai B. Damore. The exact terms of reference are as follows :—

"Whether the action of the management of Vysya Bank Ltd., Ahmedabad in terminating the services of Shri Shankerbhai B. Damore without complying with the provisions of the I.D. Act w.e.f. 1-12-85 is legal and justified? If not, to what relief the workman is entitled for?"

2. After the receipt of the reference in the Tribunal, the parties were called for hearing on 13-3-89. The parties were also asked to send their respective statements on or before that date. On 13-3-89, the matter was adjourned as per the written request of the management and the hearing was adjourned to 26-4-89. In the meanwhile the parties approached the Tribunal on 12-4-89 and requested for taking the matter on Board as they had arrived at a settlement. The matter was accordingly taken on Board. The parties then filed a settlement which has been taken on record at Ex. 7. I have gone through the terms of settlement and I find them to be fair and just. The workman concerned had also appeared before the Tribunal and he appeared to be satisfied with the terms of the settlement. I accordingly pass an Award in terms of the settlement enclosed herewith at

Annexure-A.

SECRETARY,
Ahmedabad.
Dt. 13-4-89.

A. N. RAM, Industrial Tribunal
[No. L-12012/2/89-I.R.(Bank-I)]

ANNEXURE-A

BEFORE THE INDUSTRIAL TRIBUNAL AHMEDABAD

Ref. (I.T.) C. No. 20/1989

First Party : Sri Shankar Bhimaji Damore, Ahmedabad.

Vs.

Second party—The Branch Manager, The Vysya Bank Ltd., Ahmedabad.

Joint Memo of Settlement Filed by the Parties

The dispute is amicably settled between the parties. The second party workman admits that he had worked as a part-time Sweeper in the Vysya Bank Limited, Ahmedabad on purely temporary basis and that he voluntarily abandoned the said work due to some of his personal inconvenience. However, the First Party bank is willing to pay him a sum of Rs. 5,000 by way of P.O. bearing No. 016477/141/89 dated : 12-4-89 drawn on The Vysya Bank Ltd. Ahmedabad by the Vysya Bank Limited, Ahmedabad in full and final settlement of his claims including reinstatement in service. The First party workman is willing to accept the said amount from the second party by way of the said P.O. in full and final settlement of all his claims whether raised in this ref. or not raised and undertakes not to raise any further dispute in this regard. He has no objection for closing this dispute in view of the said settlement. The first party workman also acknowledges the receipt of the said P.O. today from the second party bank.

In view of the same the parties request that the dispute may be closed.

FOR THE VYSYA BANK LTD.

B. R. DHAR, Manager
Ahmedabad.

FIRST PARTY :

SECOND PARTY :

AHMEDABAD.

DATE : 12-4-1989.

ADVOCATE FOR THE FIRST PARTY :

Identified by me :

Read & explained to the 2nd Party in Gujarati language by me, and 2nd party has signed after understanding in details, what is stated in this joint Memo.

R. R. PATEL
(ADVOCATE)

नई दिल्ली, 20 जुलाई, 1989

का.प्र. 1974—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पिछले बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अन्तर्ध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलौर के पंचद को प्रकाशित करती है।

New Delhi, the 20th July, 1989

S.O. 1974.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Govt. hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Grindlays Bank and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM LABOUR COURT AT BANGALORE

Dated 13th March, 1989

PRESENT :

Shri B. N. LALGE, B.A. (Hons), LL.B. Presiding Officer
Central Reference No. 5/89

I PARTY

II PARTY

Shri D. Praghakar & 6 Others Vs The Manager
R/by the General Secretary, Grindlays Bank P.L.C.
Grindlays Bank Employees' Union unity Buildings
C/o Grindlays Bank, Unity Buildings Bangalore-560002.
Bangalore-560002.

For the I Party—Shri P. N. Subramanyan General Secretary Grindlays Bank Employees' Union.

For the II Party—Shri C. Krishnamurti Representative of II party Bank.

AWARD

By exercising its powers conferred under Section 10(1)(d) of the I.D. Act, 1947, the Government of India, Ministry of Labour has made the present reference vide its order No. L-12011/2/88-D.IV (A) dated 29-12-1988 on the following point of dispute.

POINT OF REFERENCE

"Is the management of Grindlays Bank p.l.c. justified in rejecting Earned/Casual Leave to S/Shri D. Prabhakar, V. Venkataraman, P. S. N. Prasad, V. S. Gaikwad, C. L. Raghavendra Rao, R. R. Sajip and Ms. Helen Verdes, for attending the All India Conference of the union in October 1986 and deducting the wages for the period for which leave was applied for without issuing show-cause notice or intimation? If not, to what relief the workmen will be entitled?"

2. The I party union has filed its claim statement and after putting forth its case, it has been prayed that an award may be passed to the effect that there is no justification for the action of the management and that the management may be asked to pay the wages.

3. The II, party mangement has filed its counter statement and inter alia, contended that its action is justified and the I party is not entitled to put forth the said claim.

4. On 8-3-1989, the I party examined two witnesses and got marked Exs. W-1 to W-3.

5. On 8-3-1989, the matter came up for hearing. The II party examined one witness and got marked Exs. M-1 to M-10. The I party got marked Exs. W-4 to W-16.

6. The learned representative for the II party has advanced his arguments.

7. The learned representatives for the I party was in the course of advancing his arguments. At that time, it was thought proper and expedient that the parties should be asked to come to an understanding and get the matter settled amicably with that object, the following views were expressed in open court and the parties were requested to consider whether they would agree for an award being passed on the said lines. The matter was then called for further hearing today.

8. On 9-3-1989, both the parties have filed a memo in the office that both of them agree for the said award.

9. In view of their agreement for the expression given by this Tribunal, I find that in the interest of justice, the matter should be disposed of in terms of the award shown below.

10. The order of reference deals with the question of justification of deduction of wages for the period ranging between two days and 5 days.

11. On the one hand, the I party workman contend that the matter involves vital questions relating to attending to their trade union activities, whereas the II party management contends that the matter involves the rights and privileges of the management in regard to the management of the business of the bank and grant of various kinds of leave.

12. In my view, if the matter is decided on merits, an such a small matter, it will have for reaching consequences and it may embitter the feelings between the parties and it may not be conducive to the industry as a whole.

13. I am, therefore, of the view that as an exception to the general rule and procedure, the management should grant the leave sought for and pay the deducted wages. I also find it necessary and expedient to impress on the I party that they should take into account the interests of the customers and that the smooth working of the bank should not suffer when they intend to go on leave for the purpose of trade union work.

14. I am of the view that the present order which is passed on the principles analogous to the provisions of Section 11-A of the I.D. Act, as a discretionary order, should not be taken or cited as a precedent, since it is not an award passed on merits.

(Dictated to the Stenographer, taken down by her, got typed and corrected by me).

B. N. LALGE, Presiding Officer
[No. L-12011/2/88-D.IV(A)] [IR(B-I)]

नई दिल्ली, 27 जुलाई, 1989

का प्रा. 1975—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कर्नाटक बैंक लि. के प्रबंधन के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पक्षों को प्रकाशित करती है।

New Delhi, the 27th July, 1989

S.O. 1975.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Karnataka Bank Ltd. and their workman.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM LABOUR COURT AT BANGALORE

Dated 2nd November, 1989

PRESENT :

Shri B. N. Lalge, B.A. (Hons), LL.B. Presiding Officer
Central Reference No. 194/87

I PARTY

II PARTY

Shri S. C. Bellary

The Chairman

Rep. by the President
All Bank Daily Deposit

Vs. Karnataka Bank
Mangalore

Collector's Association
9 Corporation Building,
Broadway, Hubli.

APPEARANCES :

For the I party—Shri A. C. Navahur, Advocate.

For the II party—Shri V. N. Apte, Advocate.

AWARD

By exercising its powers under Section 10(1)(d) of the I.D. Act 1947, the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its Order No. L-12011/75/81-D. II(A) dated 10th August 1987. By a General Order No. S-11025/1/87-D.IV (B) dated 16/25th November 1987, the matter has been transferred to this Tribunal. It is at Sl. No. 24.

POINT OF REFERENCE

“Whether the action of the management of Karnataka Bank Ltd., Hubli in withholding the monthly commission payable to Shri B. C. Bellary, Honey Deposit Canvasser, Haveri Branch in demanding collection cards given to him and in terminating his services with retrospective effect from 1-9-81 by order No. 5306/81 dated 23-9-81 of the manager is justified?

If not, to what relief is the workman entitled?”

2. The I party union has then filed its claim statement and inter alia, it has been contended that Shri Shivanand C. Ballary was working as Honey Deposit Canvasser for the II party at Haveri branch with effect from 9-3-78 and that his services were terminated illegally with effect from 1-9-1981 and that an award may be passed for reinstatement and consequential benefits.

3. The II party has filed its claim statement and inter alia, it has been contended that the I party was not a workman employed by them but that he was only a Honey Deposit Canvasser on commission basis and that he cannot maintain the reference. In view of the said pleadings, two preliminary issues were raised as follows :

(1) Whether the I party S. C. Ballary is a workman as defined under the I.D. Act.

(2) Whether the dispute is not an industrial dispute and this Tribunal has no jurisdiction.

4. Evidence was received on the same and the parties were heard.

5. By a considered order dated 6-9-1988, it has been held that the I party Shri S. C. Ballary was not a workman within the meaning of the Section 2(s) of the I.D. Act and this Tribunal has no jurisdiction to entertain the matter.

6. However, the parties were not heard as to why an award should not be passed in that connection. The matter was, therefore, called at Dhawad camp on 14-10-1988. Both the parties were absent.

7. In view of my finding on the said issue, it follows that this Tribunal has no jurisdiction to entertain the matter and that an award shall have to follow that the reference is not maintainable and that the workman is not entitled to any relief in this Tribunal.

8. In the result, an award is passed to the effect that the reference is not maintainable and that this Tribunal cannot pass any award for any relief. The findings dated 6-9-1988 on preliminary issues recorded by this Tribunal shall form part of the award. Copy of the same is enclosed.

(Dictated to the Personal Assistant, taken down by her, got typed and corrected by me).

B. N. LALGE, Presiding Officer

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT BANGALORE

Dated 6th September, 1988 at Dharwar Camp

PRESENT :

Shri B. N. Ladge, B.A. (Hons), L.L.B. Presiding Officer,
Central Reference No. 194/87

I PARTY

Shri S. C. Ballary
Rep. by the President
All Bank Daily Deposit
Collector's Association
9, Corporation Building
Broadway, Hubli.

II PARTY

Vs. The Chairman
Karnataka Bank
Managalore,

ORDER ON PRELIMINARY ISSUE

1. In the claim statement filed by the I Party, inter alia, it has been contended that Shri Shivanand C. Ballary was employed as deposit collector on commission basis by the II Party management. The salient features of the work of Honey Deposit Canvasser are shown as follows :

The Deposit canvasser will be given challans with counters and an identity card to collect the deposits from the depositors. He has to go to customers' door to door presenting the identity card to the customers each time he receive deposits from them and has to obtain signatures of the customers on both the portions of the challans. These collections will be entered in a sheet by the deposit collector, account number wise and will be given to the checking authority in the bank. Only after the collections made, amount as per the sheet, and challans tally the amount will be remitted to the Cashier.

It is further contended that for the work done by him, he was paid wages in the form of commission. All of a sudden, his services were terminated with effect from 1-9-1981 by a publication in Samyukta Karnataka newspaper of 29-9-1981. No domestic enquiry has been held against him. The action of the management is contrary to Section 2(oo) and 25-F of the I.D. Act. Hence, he may be ordered to be reinstated with consequential benefits.

2. In the counter statement filed by the II party, inter alia, it has been contended that he was appointed as a canvasser and collector of deposits from his customers in Honey Deposit scheme of the II party under an agreement deed dt. 9-3-1978. There is no master and servant relationship between them. He had to collect the deposits from his customers from anywhere and at any time of the day and deposit the same in the bank. For the work of canvassing and collection of deposits, he was to receive commission at different rates, depending upon the nature of honey deposit scheme. He had no particular place of work or a given area of work or specified hours of work. He was free to engage himself in any trade, business or work during any hours of the day unlike any other bank employee. He was not amenable to the disciplinary control of the bank. He was not entitled to any kind of leave or any other benefit enjoyed by the other employees of the bank. It is false that he was paid wages. He was not a workman within the meaning of Section 2(s) of the I.D. Act. The appellate authority under the Karnataka Shops and Commercial Establishments Act held that he was not an employee. The said decision operates as a res judicata. It is false that his services were terminated, since he was never in their service. The agreement of his canvassership was terminated. There was no question of holding any enquiry against him, since he was not their workman. The provisions of Sections 2(oo) or 25-F were not attracted. He was not their canvasser in August 1981. The other allegations made by him are false. The reference may be rejected.

3. In view of the said pleadings, two issues as shown below were raised.

“(1) Whether the I party S. C. Ballary is a workman as defined under the I.D. Act.

(2) Whether the dispute is not an industrial dispute and this Tribunal has no jurisdiction."

4. They were taken up as preliminary issues.
5. The II party examined one witness and got marked Exs. M-1 to M-11.
6. The I party workman has examined himself.
7. The parties have been heard.
8. My findings on the said issues are as follows.

Issue No. 1

The I party Shri S. C. Ballary was not a workman as defined in section 2(s) of the I.D. Act.

Issue No. 2

This Tribunal has no jurisdiction to entertain the matter.

REASONS

Issue Nos. 1 and 2

Section 2(s) of the I.D. Act defines as to who is a workman.

"Workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); (u) or
- (ii) who is employed in the police service or as an officer or other employee of a prison; or
- (iii) who is employed mainly in a managerial or administrative capacity; or
- (iv) who, being employed in a supervisory capacity, draws wages exceeding on thousand six hundred rupees per mensem or exercise, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature(v).

On going through the said definition, it is obvious that there should be employee and employer relationship between the parties, if at all any person is to be held as a workman. In order to show that there was such relationship, the I party workman has examined himself. It appears in his examination-in-chief that he was appointed as a pigmy deposit collector by the II party on 9-3-1979 at their Maveri Branch and he was paid commission at 2-1/2 per cent. In para 3 of his evidence, he further states that his duties were between 2 p.m. and 6.30 p.m. and he was expected to go to the houses and shops of the customers to collect deposits. He adds that he used to go to the bank at 10.30 a.m. and used to credit the collections of the previous day. His evidence further shows that he had given an application for the said post and that an order of appointment was issued to him by the Head office. In Para 8 of his evidence, he states that he has signed an agreement but it was in English and though he had studied upto 9th standard, he does not know reading and writing English. He has further stated that the contents of the agreement Ex. M-1 were not read out and explained to him. However, he admits that he has signed at Ex. M-1(a). In para 14 of his evidence, he states that if he were to collect more than Rs. 10,000, he used to get a commission of 3 per cent. The cross-examination of MW-1 discloses that he had given the application as per Ex. M-2 and he had signed at Ex. M-2(a). The workman swears that the then Manager had told him to get the application typed, he went and got the application Ex. M-2 typed. In para 31, he however states that he did not ask the typist about the contents of Ex. M-2. The

manager of the said branch P. Narayana Rao has been examined as MW-1. He has sworn that the I party was appointed as a honey deposit canvasser and he had given an application in that connection and that he had affixed his photo to the same. It is admitted by WW-1 Ballary that the photo shown at Ex. M-2 is his and he has signed at Ex. M-2(a). MW-1 has further sworn that after his application was received, there was an agreement between the bank and the I party and he signed it in his presence. The contention of the I party that he did not go through the typed application Ex. M-2 and without knowing its contents, he signed the same cannot be believed. Similarly, it cannot be believed that he blindly signed the agreement Ex. M-1. In the claim statement, itself it has been admitted by him that his assignment was as a deposit collector on commission basis. In para 3 of the claim statement he has elaborately stated about the procedure of effecting collections and crediting the same to the bank. The procedure indicated involves lot of writing work and looking at the fact that the I party has signed in English in Exs. M-1 and M-2 and that he has studied upto 9th standard, it is obvious that knowing full well about the contents of Ex. M-3, he had given the application and then signed the agreement Ex. M-1. The I party has not examined the witness who has typed the agreement Ex. M-1 to establish that his signature was taken on the same blindly. Ex. M-4 is the letter by which the I party pledged the document of his fixed deposit of Rs. 1,000 of A.C.C. No. 5/78 as a security for his being appointed as the canvasser for honey deposits. It is admitted by him that he gave a letter in 1982, stating that he intended to close the account and thus he got back the said amount. The signature at Ex. M-3 (a) is admitted by him. The documents at Exs. M-3 and M-4 and the subsequent conduct of MW-1 Ballary support the case of the II party that he was engaged as a honey deposit canvasser and collector on commission basis and that he was not employed on wages. The file obtained from the Assistant Labour Commissioner, Belgaum Division, Hubli has been marked by consent as Ex. M-10. The documents marked at Exs. M-5 to M-9 in the said file prove that the I party had raised a dispute before the said authority and on hearing both the parties, the said authority held that he was not an employee of the II party bank. The memorandum of appeal filed before the Assistant Labour Commissioner under Section 39 of the Karnataka Shops and Commercial establishments Act is at page 33 of the said file. He had prayed that the respondent bank should be directed to reinstate him and to pay him consequential benefits. The order of the said authority is at page 36 of Ex. M-10. It has been held by the said authority that he was only a deposit canvasser and there was no employer and employee relationship between them. Ex. M-11 is the certified copy of the said order to be found at page 36 of Ex. M-10. There is no dispute on the point that the said order at Ex. M-11 had been further challenged by him before the District Judge, Dharwar in C.R.P. No. 179/82, but it was dismissed. The order passed by the learned District Judge is at page 43 of Ex. M-10. The question whether the said orders operate as res-judicata against the I party is not the point in issue, presently. It has been still kept open. However, the said proceedings lend support to the contention of the II party that the I party Ballary was engaged only as a honey deposit canvasser and collector and there was no employer and employee relationship between them.

9. The learned counsel for the I party has argued the matter and has also sent his written arguments by post. He has relied upon the case of Mangalore Ganesh Beedi Works Vs. Union of India (AIR 1974 Supreme Court, Page No. 1832). The authority has laid down certain principles with reference to various provisions of Beedi and Cigar workers (Conditions of Employment) Act of 1966. The principles laid down with reference to the provisions of the said special Act are not attracted as regards the definition of workman to be found in Section 2(c) of the I.D. Act. The said act had been enacted with the purpose that the workman engaged in the said industry should not be deprived of their legitimate wages and other benefits because a contractor intervenes and merely because the place of work is not a defined factory premises. Notwithstanding the fact that there is a middleman such as a labour contractor, the enactment was intended to make it clear that the manufacturer shall be liable for their wages and other benefits. In the case at hand, no question of an intervening contractor is involved.

There can be no analogy between the provisions of the said act and section 2(s) of the I.D. Act.

10. The learned counsel for the I party has then cited the case of Hussainbhai Vs. the Alath Factory Tezhilali Union and others (AIR 1978 Supreme Court, Page 1410). The facts of the reported case would show that number of workmen had been engaged to make ropes from within the factory premises but the petitioner the factory owner contended that they had been hired by contractors, who had executed agreements in his favour to get the said work done. The petitioner therefore contended that the workman were not his workmen but they were of the contractors'. In that context, a principle has been laid down that where a worker or a group of workers produce goods or services and these goods or services are for the business of another, that other is, in fact, the employer. It has been further enunciated that the presence of intermediate contractors with whom alone the workers have immediate or direct relationship ex-contractu is of no consequence and that the real employer is the management and not the contractors. As observed by me earlier, the case at hand does not involve intervention of any independent contractor between the I party and the II party. The principles in these two authorities laid down in different contexts are not attracted.

11. On the other hand, the learned counsel for the II party has brought to my notice the provisions of the Sales Promotion Employees (Conditions of Service) Act, 1976 and contended that the statement of objects and reasons for the said act would disclose that medical representatives, who stand on the same footing as the deposit canvassers are not the workmen and therefore the said, bill was introduced to provide relief to such employees. The learned counsel for the II party further urged that the deposit canvasser stands on no better footing than a medical representative, who works on commission basis. The facts of the present case would disclose that the I party had to find out his own customers, approach them at any time of the day, canvass and collect deposits and then deposit the same with the bank and get the proportionate commission, depending upon the collection that he had done. The evidence of WW-1 that he had specific timings has not been substantiated by any other material on record. It has not been accepted. His application Ex. M-2 and the terms of the agreement Ex. M-1 have established for the II party that there was no specific time and place for the work he had to do.

12. The time-honoured expression "Master and Servant" indicates the relationship which exists when one person who employs another to do certain work exercises the right of control over the performance of the work to the extent of proscribing the manner in which it is to be executed. In such cases, the test is whether employer has retained the power, not only of directing what work is to be done, but also of controlling the manner of doing the work. The control of the management is thus a necessary element of the relationship of master and servant. A distinction shall have to be drawn between contract for services on the one hand and contract of services on the other. In the first case, the master can order or require what is to be done while as in the second case he can, not only order or require what is to be done, but also how itself it shall be done. In the contract for services although the work done by the person is for the business of another, it is not integrated into it, but it is only accessory to it. An application to do work subject to the control of the other party is a necessary condition of a contract of service, whereas it will not be so in a contract for service. The learned counsel for the I party strongly contended that the main business of the bank is to collect deposits and since the work done by the I party was collection of deposits, for a fixed quantum of wages, he became the workman within the meaning of Section 2(s) of the I.D. Act. As observed earlier, the real test is whether his work had become the integral part of the business of the bank and it can only be so, if he had to work under the supervision and control of the II party. It is not the case of the I Party workman that he had been given any list of specific customers with a direction that he should approach them within the specified hours of the day, collect certain amounts from them in a certain manner and then produce the same before the bank. The element of control and supervision is not there.

13. Though in the written arguments, reference has been made to a case of B. colliery Vs. Their workman (1962), II LJ, page 356), no copy of the said authority has been placed before me. In the absence of the authority, it is difficult to appreciate the submission made in that connection.

14. The learned counsel for the II party cited the case of Shri Jugal Kishore Mittal Vs. The Management of Sasta Sahitya Mandal and Others (1987) I LJ, Page 231). The principle laid down in the authority is that a person employed as a salesman to canvass and sell books is not a workman within the meaning of Section 2 (s) of the I.D. Act. In my view, the authority supports the contention of the II party that a honey deposit canvasser and collector is not a workman within the meaning of Section 2 (s) of the I.D. Act and especially in the context of the documents at Exs. M-1 to M-4.

15. Since a finding has been recorded that the I party is not a workman, it necessarily follows that this Tribunal has no jurisdiction to entertain the matter.

16. In the result, a finding is recorded on Issue No. 1 that the I party is not a workman as defined in Section 2 (s) of the I.D. Act and on Issue No. 2 it is held that this Tribunal has no jurisdiction.

17. Since the parties have not been heard on the point as to why an award should not be passed accordingly, a further opportunity is given to them.

(Dictated to the Personal Assistant, taken down by her, got typed and corrected by me.)

B. N. LALGE, Presiding Officer
[No. J-12011/75/81-D.II(A)/IR(B-1)]

का.प्र. 1976—औद्योगिक विवादप्रतिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार, भारतीय जोशव बोधा नियम के प्रबंधन के संबंध निोजकों और उनके कर्मकार के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रधिकरण नई दिल्ली के पक्षपट को प्रकाशित करती है।

S.O. 1976.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal New Delhi, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of L.I.C. of India and their workmen, which was received by the Central Government on the.

BEFORE SHRI G. S. KALRA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
NEW DELHI

I. D. No. 101/87

In the matter of dispute between :

Shri Satya Pal Singh C/o Sant Niwas, 150 Shakaya Puri,
Kanker-Khera, Meerut-250001.

Versus

The Sr. Divisional Manager, L.I.C. of India, Parbhat
Nagar, Saket, Meerut-250001.

APPEARANCES :

Shri O P. Vidyarthi—for the workman.

Shri C. P. Sharma with Shri Mahender Singh—for the
Management.

, AWARD

The Central Government in the Ministry of Labour vide its Order No. L-17012/5/87-D.IV (A) dated 5-10-87 has referred the following Industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of the Life Insurance Corporation of India, Meerut, in terminating the services of Shri Satya Pal Singh w.e.f. 6-4-86, is justified? If not, to what relief the workman is entitled to?"

2. Some of the undisputed facts are that Shri Satya Pal Singh claimant-workman belongs to the Scheduled Caste and is a Balmiki which is the most backward and poor class even amongst the Scheduled Castes. The workman was appointed as a Probationary Development Officer in the Life Insurance Corporation of India (hereinafter referred to as the Management) vide letter dated 4-4-1985. The services of the workman were terminated vide letter dated 5-4-1986.

3. The workman has challenged his termination as being punitive, mala fide and discriminatory on account of caste prejudice. He has also alleged that the Management has contravened the mandate incorporated in Articles 46 and 335 of the Constitution of India which enjoins upon the State to provide for the promotion of educational and economic interest of the weaker sections of the people and in particular of the Scheduled Castes and Scheduled Tribes as well as to protect the claims of members of the Scheduled Castes and Scheduled Tribes in the matter of appointments to service and posts in connection with the affairs of the Union or of a State. He has also alleged violation of the provisions of Articles 14 and 16 of the Constitution of India on the ground that the Management has singled him out for its mala fide and punitive action in as much as other probationary development officers who had given lesser output than him were given extension of probationary period and ultimately absorbed in service whereas no such extension was given to him although his performance was better than them, with a view to enable him to improve performance. He has cited specific cases and for facility of reference the averments made by the workman in this regard are produced below verbatim :

- "(i) Nasir Hussain—Probationary Development Officer Deoband Branch, who was appointed on the same day as the petitioner had given to the respondent employer the same amount of business as the petitioner upto the date of the expiry of his initial probation. He was not ever granted further extension in probation, whereas the petitioner workman was denied the said opportunity. Said Nasir Hussain is now confirmed on the post of the Development Officer.
- (ii) S. P. Singh—Probationary Development Officer, Rurki Branch was also granted a further period of probation on expiry of his initial probationary period. He is now confirmed.
- (iii) Dharam Pal Singh—Probationary Development Officer Rampur Branch, was also granted extension for a period of 1 year, on expiry of his initial probationary period. He has now been confirmed.
- (iv) Shri Basant Kumar—Probationary Development Officer Mawana Branch, was similarly granted further extension of probation for a period of one year, on expiry of his initial probationary period.
- (v) Shri Subhash Chand Sharma—Probationary Development Officer, Khatoli Branch was terminated and was later re-appointed as Probationary Development Officer. On expiry of his initial probationary period, he was granted an extension. Now he has been confirmed on the post of the Development Officer.
- (vi) One Shri Yoginder Kumar—Probationary Development Officer, Rurki Branch, was confirmed on the post on completion of his initial probationary period, though he had not fully complied with the condition of his appointment relating to getting 15 Agents qualified. Said Probationary Officer had succeeded in getting only 10 out of the required number of 15 Agents qualified, and thus failed to comply with a condition of his appointment. The breach of the said condition in the case of said Probationary Development Officer was condoned, whereas in the case of the petitioner workman, the breach of the conditions of appointment was visited with the evil

consequence, namely, an arbitrary, mala fide and punitive termination of his services in patent violation of the Principles of Natural Justice. The said action against the petitioner workman can be explained only on the basis that his superiors belonging to high castes were unfortunately not reconciled to a Balmiki being appointed a Development Officer in a prestigious institution like the Life Insurance Corporation of India.

- (vii) Mr. R. K. Tyagi—Probationary Development Officer, Mawana Branch was confirmed on the post of the Development Officer, on expiry of his initial probationary period of one year, even though he had also not fully complied with the conditions of his appointment relating to the qualification of 15 Agents. Out of the required number of 15 Agents to be compulsorily qualified by the Probationary Development Officer as per the conditions of service, Shri Tyagi had got only six Agents qualified, committing thereby a breach of the conditions of his appointment. The respondent employer condoned the said breach in the case of Mr. Tyagi, while confirming him on the post of the Development Officer, whereas the petitioner was visited with a punitive order of termination for the alleged non-compliance of the conditions of his appointment. The reasons for denying the similar favour to the petitioner workman are loud and clear, namely, high-caste prejudice and hostility to low-caste candidates."

The workman has prayed that he may be reinstated in service with continuity of service and full back wages.

4. The Management in its written statement raised the preliminary objections that the claimant is not a workman as he worked in the capacity of discharging his duties which were mainly of managerial and administrative nature, that the probation period of the workman had not expired and his services could be terminated at any stage before he could complete his probation period and that the workman has approached the court without exhausting remedies available to him under Staff Regulations 1960 of Life Insurance Corporation of India. On merits it was submitted that the appointment of the workman was subject to the conditions mentioned in the appointment letter dated 4-4-85 and his confirmation was subject to his record of past civil service to the policy holders and other functions in the area allotted to him. During the probationary period, the workman secured a business of Rs. 89 lacs on 89 lives with scheduled first year's premium income of Rs. 40506.30 which was below the target expected of him. Similarly he recruited less number of new agents and qualified agents than the target expected of him. Before the termination letter was served on the workman, he was advised from time to time to improve his performance. The workman's termination was made on the basis of unsatisfactory performance. It was denied that the Management had violated any principles of natural justice or that its action was punitive, mala fide or discriminatory as alleged or that it violated any provision of the Constitution. It was further stated that the business performance of all the employees quoted by the workman was much better than the performance of the workman, on various count. It was also denied that any favour had been shown in the case of other candidates/development officers and it was submitted that each and every development officers performance was considered on merits.

5. The workman submitted a rejoinder in which he controverted the objections and the averments of the Management. The workman reiterated that he had secured much more business than others who were retained in service and in particular he cited the names of Nasir Hussain Deoband Branch, Basant Kumar, Subhash Chander Sharma Khatoli Branch, Yogender Kumar and R. K. Tyagi. He further stated that the figures given by the Management in its written statement were not acceptable and as the same were fictitious and the actual figures could be verified from the record of business for that particular year which was in possession of the Management. He reiterated that the figures given in the statement of claim were correct.

6. It appears that the Management has raised preliminary objections regarding the claimant being not a workman and

the claimant not exhausting the remedies available to him under the staff regulating, for the sake of objections only.

He should be oblivious of the decision of the Hon'ble Supreme Court in S. K. Verm's case wherein it was held that a Development Officer of the L.I.C. is a workman. The claimant was only a probationary Development Officer and, therefore, it is wrong on the part of the Management to raise such an objection that the claimant is not a workman. The workman has appended along with his statement of claim the copies of the letter dated 14-4-86 addressed by him to the Sr. Divisional Manager L.I.C. letter dated 17-6-86, addressed by him to the Chairman of L.I.C. and letter dated 15-10-86 addressed by the Management to the workman informing him that his case had been considered and his representations had been rejected. Therefore, the objection of the Management that the workman has not exhausted remedies available to him is also frivolous.

7. As regards the third objection, the letter of appointment 4-4-85 clearly states that the claimant shall be on probation initially for a period of 12 months and the probationary period was liable to be extended so as not to exceed 24 months and further that on satisfactory completion of the probation and on the basis of the workman's performance and compliance with the conditions of appointment set out in the letter, he will be confirmed. It is, therefore, apparent, even if the initial period of probation had been completed and it had not been extended, there had to be a specific act of confirmation of his services by the Management. In the case of Express Newspapers Limited Vs. Labour Court 1964 (1) LLJ 9, the Hon'ble Supreme Court held as under :

"There can, in our opinion be no doubt about the position in law that an employee appointed on probation for six months continues as a probationer even after the period of six months if at the end of the period of his services had either not been terminated or he is not confirmed. It appears clear to us that without anything more an appointment on probation for six months gives the employer no right to terminate the service of an employee before six months had expired except on the ground of misconduct or other sufficient reasons in which case even the services of a permanent employee could be terminated. At the end of the six month's period, the employer can either confirm him or terminate his services, because his service is found unsatisfactory. If no action is taken by the employer either by way of confirmation or by way of termination the employee continues to be in service as a probationer."

In other words the employer's right to terminate the services of the probationer at the end of probationary period without anything more, was recognised. In the present case, the limit to the probationary period of the workman had been fixed at 24 months. If the workman had been allowed to continue beyond 24 months then there would have been no implication that he continued to be on probation. However, service of the workman were terminated after about 12 months of service only and, therefore, it was well within the maximum limit of probationary period and there is no implication of his having been confirmed. Therefore the contention of the workman that on the expiry of the initial period of 12 months probation he stood confirmed is untenable and is rejected.

8. The only point that remains to be considered is whether there has been any discrimination against the workman vis-a-vis the other probationary Development Officers specifically mentioned by him. The workman has given specific facts and figures regarding his own performance and the performance of the said other Probationary Development Officers, and has also stated that the facts and figures can be ascertained from the record of the LIC. It is an undeniable fact that the record of actual performance by the workman and the other Development Officers is available with the Management. However the Management for reasons best known to it, has failed to produce any record to substantiate its own pleadings or to disprove the facts and figures given by the workman. It has simply contended itself by making a sweeping observation in the written statement that "the business performance of all the employees quoted by the workman in

this para was much better than the performance of the workman on various counts—". The records have not been produced inspite of the reassertion by the workman in his rejoinder that the figures submitted by him in his statement of claim are correct and these mentioned by the Management in its written statement are fictitious. In these circumstances, an adverse inference is drawn against the Management for intentionally withholding the record, that if produced it would have been unfavourable to it. Therefore, the facts and figures mentioned by the workman are accepted and it is held that the Management is guilty of discrimination. It is pertinent to mention here that the Life Insurance Corporation of India is 'State' within the meaning of Article 12 of the Constitution of India and it is expected to treat all citizens of India equally and fairly without any favour or discrimination. It may also be mentioned that the Balmiki are at the lowest rung even among the Scheduled Castes who are disadvantageously placed in relation to the other castes and that is the reason why special provisions have been made for the members of the Scheduled Castes under Articles 46 and 335 of the Constitution. It is indeed unreasonable to expect a Balmiki Scheduled Caste to compete with and fetch the same amount of business as the members of the other castes. Although the targets of business had been set in the order of appointment and it was, therefore, a condition of appointment of the claimant yet the Management should not have shown total disregard to the realities on the ground and expected the claimant to give as much output as members of the other castes. In any case, there was no justification for not extending the probationary period to the maximum permissible limit in the case of the workman who was a Balmiki Scheduled Caste whereas the probationary period in the case of the other candidates who had not come up to the mark had been extended. While it is not possible to hold that there has been any specific violation of Articles 46 and 335 of the Constitution, it must be said that the Management has not followed the spirit behind the provisions of these Articles. When an over all view of the entire facts and circumstances of this case is taken, it gives the impression that the workman has not been fairly treated and rather has been discriminated against and consequently the action of the Management in terminating his services on completion of one year's probation is not justified.

9. In view of the discussion made above it appears in the interest of justice that the workman should be given another chance to show better performance and hence, he is directed to be reinstated in service and kept on probation for another 12 months and if his performance is found to be satisfactory he shall be confirmed and given the benefit of continuity of service. However, back wages are declined. Needless to say, that it is expected of the Management to give all encouragement to the workman to show better results and also keep in view that he is a scheduled caste and on top of that a Balmiki. This reference stands disposed of accordingly.

Further it is ordered that the requisite number of copies of this award may be forwarded to the Central Government for necessary action at their end.

28th February, 1989.

G. S. KALRA, Presiding Officer

[No. L-17012/5/87-D.IV(A)/R(B-D)]

PADMA VENKATACHALAM, Dy. Secy.

नई दिल्ली, 17 जुलाई, 1989

का. प्रा. 1977:—यतः मैसर्स यंता एडवर्टाईजिंग (प्राइवेट) लिमिटेड 9/11 एन. एस. पतकार मार्ग, पी. वी. नं. 9320, आरक्षेश्वर वी रोदेज चौक, बम्बई-400036 और इसकी बंगलौर एवं दिल्ली स्थित शाखाएं (इसके आगे जहाँ कहीं भी उक्त स्थापना शब्द का प्रयोग हो इससे अभिप्राय उक्त स्थापना से है) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) इसके आगे उक्त अधिनियम के नाम से निदिष्ट को धारा 17 की उपधारा (1) के खंड (क) के अंतर्गत छूट प्राप्त करने के लिए आवेदन किया है।

यह केन्द्र सरकार की राय में उक्त स्थापना के कर्मचारियों के लिए तैयार किए गए भविष्य निधि नियमों में अंगदान की दर उक्त अधिनियम की धारा 6 में उल्लिखित कर्मचारी अंगदान की दर से कम नहीं है तथा इसके कर्मचारियों को मिलने वाले भविष्य निधि लाभ उक्त अधिनियम तथा कर्मचारी भविष्य निधि स्कीम, 1952 (इसके प्रागे जहां कहीं भी स्कीम शब्द का प्रयोग किया गया है उसमें अधिप्राय उक्त स्कीम से है) में उल्लिखित लाभों से किसी भी प्रकार से कम नहीं है जो इस वर्ग की स्थापनाओं में कार्यरत कर्मचारियों को उपलब्ध है।

अथ इसलिए उक्त अधिनियम की धारा 17 की उपधारा एक के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और संलग्न अनुसूची में वर्णित शर्तों के अधीन केन्द्रीय सरकार इसके द्वारा उक्त स्थापना को उक्त स्कीम के सभी उपबन्धों के लागू होने से छूट प्रदान करती है।

अनुसूची

1. उक्त स्थापना से संबंधित नियोक्ता केन्द्र सरकार के द्वारा समय समय पर दिए गए निर्देश के अनुसार उक्त अधिनियम की धारा 17 की उपधारा (3) के खंड (क) में उल्लिखित निरीक्षण के लिए सुविधाएं प्रदान करेगा और ऐसे निरीक्षण प्रभार की अवायवी प्रत्येक माह की समाप्ति के 15 दिन के अन्दर करेगा।
2. न छूट प्राप्त स्थापनाओं के संबंध में उक्त अधिनियम और उसके अधीन मुजित उक्त स्कीम के अन्तर्गत देय अंगदान के दर से स्थापना के भविष्य निधि नियमों के अन्तर्गत देय अंगदान का दर किसी समय भी कम न होगा।
3. पेशगियों के मामले में छूट प्राप्त स्थापना की स्कीम कर्मचारी भविष्य निधि स्कीम, 1952 से कम हितकर नहीं होगी।
4. उक्त स्कीम में कोई भी संशोधन जो स्थापना के वर्तमान नियमों से अधिक लाभकारी है उन पर अपने आप लागू किया जाएगा। उक्त स्थापना के भविष्य निधि नियमों में कोई भी संशोधन अर्थात् भविष्य निधि आयुक्त की पूर्ण अनुमति के बिना नहीं किया जाएगा और जहां किसी संशोधन से उक्त स्थापना के कर्मचारियों के हित के प्रतिकूल प्रभावी होने की संभावना है वहां अपनी अनुमति देने से पूर्व क्षेत्रीय भविष्य निधि आयुक्त, कर्मचारियों को अपने विचार प्रस्तुत करने का उचित अवसर देगा।
5. यदि स्थापना की छूट न दी जाती तो व सभी कर्मचारी (जैसे उक्त अधिनियम की धारा 2 (ब) में निश्चित किया गया है) जो सदस्य बनने के पात्र होते मददगार बनें जाएंगे।
6. जहां एक कर्मचारी जो कर्मचारी भविष्य निधि (कानूनी) या या किसी अन्य छूट प्राप्त स्थापना का पहले से सदस्य है, को अपनी स्थापना में काम पर लगाया जाता है तो नियोक्ता उसे निधि का तुरन्त मददगार बनाएगा और ऐसे कर्मचारी के पिछले नियोक्ता के पास भविष्य निधि लेख में संचयों को अंतर्गति कराने और उसके लेख में जमा कराने का व्यवस्था करेगा।
7. केन्द्रीय भविष्य निधि आयुक्त के द्वारा अथवा केन्द्रीय सरकार के द्वारा जैसे भी मामला हो, समय समय पर दिए गए निर्देशों के अनुसार भविष्य निधि के प्रबंध के लिए नियोक्ता न्यासी बोर्ड की स्थापना करेगा।
8. भविष्य निधि, न्यासी बोर्ड में निहित होगा जो अन्य बातों के होते हुए भविष्य निधि में आय के उचित लेखों और भविष्य निधि से अदायगियों और उनकी अभिरक्षा में शेषों के लिए कर्मचारी भविष्य निधि संगठन के उत्तरदायी होगा।
9. न्यासी बोर्ड कम से कम 3 मास में एक बार बैठक करेगा और केन्द्र सरकार द्वारा समय समय पर जारी किए गए मार्ग निर्देशों के अनुसार कार्य करेगा। केन्द्रीय भविष्य निधि आयुक्त को अधिकार होगा कि वह

किसी अन्य योग्य लेखा परीक्षक से खातों को बुझा ले या परीक्षा कराए और ऐसे पुनः लेखापरीक्षा के खातों निरीक्षा करेगा।

10. न्यासी बोर्ड द्वारा रखे गए भविष्य निधि लेख अर्थात् प्राप्त निष्पक्ष चाटई धकाउटेंट द्वारा वार्षिक लेखा परीक्षा के अधीन होंगे। जहां आवश्यक समझा जाए, केन्द्रीय भविष्य निधि आयुक्त को किसी अन्य अर्थात् प्राप्त लेखा परीक्षक द्वारा लेखों की पुनः लेखा परीक्षा कराने का अधिकार होगा और इस पर हुआ व्यय नियोक्ता द्वारा वहन किया जाएगा।

11. प्रत्येक वर्ष स्थापना के लेखा परीक्षित तुल्य पत्र के साथ लेखा-परीक्षित वार्षिक भविष्य निधि लेखों की एक प्रतिलिपीय वर्ष की समाप्ति के छः माह के अन्दर क्षेत्रीय भविष्य निधि आयुक्त को प्रस्तुत की जाएगी। इस प्रयोजन के लिए भविष्य निधि कानूनीयों की पक्षीय शरीर से 31 मास तक होगा।

12. नियोक्ता प्रतिमाह भविष्य निधि के देय अपने कर्मचारियों के अंगदानों की आगामी माह की 15 तारीख तक न्यासी बोर्ड को प्रस्तुत करेगा। अंगदानों की विवरण से अदायगी करने के लिए समान परिस्थितियों में नियोक्ता नुकसान देने का उसी प्रकार उत्तरदायी होगा जिस प्रकार एक न छूट प्राप्त स्थापना उत्तरदायी होती है।

13. न्यासी बोर्ड सरकार द्वारा समय समय दिए गए निर्देशों के अनुसार निधि में जमा राशियों का निवेश करेगा। पतिभूतियों न्यासी बोर्ड के नाम पर प्राप्त की जाएगी और भारतीय रिजर्व बैंक के जमा नियन्त्रण में अनुमूचित बैंक की अभिरक्षा में रखा जाएगा।

14. सरकार के निर्देशों के अनुसार निर्देश न करने पर न्यासी बोर्ड अलग अलग रूप से और एक साथ केन्द्रीय भविष्य निधि आयुक्त या उसके प्रतिनिधियों द्वारा लगाए गए अधिक प्रभार का उत्तरदायी होगा।

15. न्यासी बोर्ड एक वस्तु व्यतीरा रजिस्टर तैयार करेगा और ब्याज और विमोचन आय को समय पर वसूली सुनिश्चित करेगा।

16. जमा किए गए अंगदानों निकाले गए और प्रत्येक कर्मचारी से संबंधित ब्याज को विवरण के लिए न्यासी बोर्ड विस्तृत लेख तैयार करेगा।

17. वित्तिय/लेखा वर्ष की समाप्ति के छः माह के अन्दर बोर्ड प्रत्येक कर्मचारी का वार्षिक लेखा विवरण जारी करेगा।

18. बोर्ड प्रत्येक कर्मचारी को वार्षिक लेखा विवरण के स्थापन पर पासबुक जारी कर सकता है। ये पास बुक कर्मचारियों की अभिरक्षा में रखेगी और कर्मचारियों के प्रस्तुताकरण पर बोर्ड के द्वारा इन्हें अदायग किया जाएगा।

19. लेखा वर्ष के पहले दिन आदि शेष पर प्रत्येक कर्मचारी के लेख में ब्याज उस दर से जमा किया जाएगा जिसका न्यासी बोर्ड निर्णय करे परन्तु यह उक्त स्कीम के पैरा 60 के अन्तर्गत केन्द्रीय सरकार द्वारा घोषित दर से कम नहीं होगा।

20. यदि न्यासी बोर्ड केन्द्रीय सरकार द्वारा घोषित ब्याज की दर इस कारण से कि निर्देश पर आय कम है या किसी अन्य कारण से अदा करने में असमर्थ है तो इस काम की निरीक्षा पूरा करेगा।

21. नियोक्ता भविष्य निधि का चारों के कारण, मृत खसोट बयानत गवन अथवा किसी अन्य कारण से हुई हानि को पूरा करेगा।

22. नियोक्ता और न्यासी, बोर्ड केन्द्रीय भविष्य निधि आयुक्त को ऐसी विवरणियां प्रस्तुत करेगा जो समय समय पर केन्द्रीय सरकार/केन्द्रीय भविष्य निधि आयुक्त निर्धारित करें।

23. उक्त स्कीम के पैरा 69 की शर्तों पर किसी कर्मचारी को निधि के सदस्य न रहने पर यदि स्थापना के भविष्य निधि नियमों में नियोक्ताओं के अंगदानों को अंग करने की व्यवस्था है तो न्यासी बोर्ड इस प्रकार जमा की गई राशियों का अलग से लेखा तैयार करेगा और उसे ऐसे प्रयोजनों के लिए उपयोग करेगा जो केन्द्रीय भविष्य निधि आयुक्त की पूर्ण अनुमति से सुनिश्चित किया गया हो।

24. स्थापन के भविष्य निधि नियमों में निर्दिष्ट किया जाना के होते हुए भी यदि किसी व्यक्ति को भेदा नियति होने के फलस्वरूप या किसी अन्य प्रतिष्ठान में नोकरी करने पर निधि की सदस्यता समाप्त हो जाती है यह पता लगता है कि प्रतिष्ठान के भविष्य निधि नियमों के अन्तर्गत अंशदान की दर समग्रकरण की दर आदि संबंधित योजना के अन्तर्गत दी गई दरों की तुलना में कम अनुसूचित है तो अन्तर का वहन नियोजित द्वारा किया जाएगा।

25. नियोजित भविष्य निधि के प्रगमन से संबंधित सभी खर्चें जिसमें लेखों के रख-रखाव रिटर्न संस्तुत किए जाते, राशिगत का अन्तरण शामिल है, वहन करेगा।

26. नियोजित समुचित प्राधिकारी द्वारा अनुमोदित निधि के नियमों की एक प्रति तथा जब भी कोई संशोधन होता है, उसको मूल्य बातों को कर्मचारियों के बहुमत की भाषा में अनुवाद करके स्थापना के बोर्ड पर लगाएगा।

27. "समुचित सरकार" स्थापना को जारी छूट पर और शर्तें लगा सकती है।

28. यदि उक्त अधिनियम के अन्तर्गत स्थापना वर्ग जिसमें उसकी स्थापना आती है, पर अंशदान की दर बढ़ाई जाती है, नियोजित भविष्य निधि अंशदान की दर उचित रूप में बढ़ाएगा, ताकि उक्त अधिनियम के अंतर्गत दिए जाने वाले लाभों से स्थापना की स्कीम के अन्तर्गत दिए जाने वाले भविष्य निधि के लाभ किसी भी प्रकार से कम न हों।

29. उक्त शर्तों में से किसी एक के उल्लंघन पर छूट रद्द की जा सकती है।

[सं० एन-35015 (14)/89-स. सु. 2]

ए. के. भट्टराई, अवर सचिव

New Delhi, the 17th July, 1989

S.O. 1977.—Whereas Messrs Chaitra Advertising (Private) Limited, 9/11, N.S. Patkar Marg, P.B. No. 9320, Ardeshir B. Godrej Chowk, Bombay-400036, with its branches at Bangalore and Delhi (hereinafter referred to as the said establishment) has applied for exemption under clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the said Act);

And whereas in the opinion of the Central Government the rules of the Provident Fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the said Act and subject to the conditions specified in the Schedule annexed hereto the Central Government hereby exempts the said establishment from the operation of all the provisions of the said Scheme.

SCHEDULE

1. The employer in relation to the said establishment shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under clause (a) of sub-section (3) of section 17 of the said Act within 15 days from the close of every month.

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2. The rate of contribution payable under the provident fund rules of the establishment shall at no time be lower than those payable under the said Act in respect of the unexempted establishments and the said Scheme framed thereunder.

3. In the matter of advances, the Scheme of the exempted establishment shall not be less favourable than the Employees Provident Fund Scheme, 1952.

4. Any amendment to the said scheme this is more beneficial to the employees than the existing rules of the establishment shall be made applicable to them automatically no amendment of the rules of the provident fund of the said establishment shall be made without the previous approval of the Regional Provident Fund Commissioner and where any amendment is likely to affect adversely the interest of the employees of the said establishment, the Regional Provident Fund Commissioner shall, before giving his approval, give a reasonable opportunity to the employees to explain their point of view.

5. All employees [as defined in section 2(f) of the said Act] who would have been eligible to become members of the Provident Fund had the establishment not been granted exemption shall be enrolled as members.

6. Where an employee who is already a member of the Employees' Provident Fund (Statutory) or a Provident Fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund and arrange to have the accumulations in the provident fund account of such employees with his previous employer transferred and credited to his account.

7. The employer shall establish a Board of Trustees for the management of the provident fund according to such directions as may be given by the Central Provident Fund Commissioner or by the Central Government, as the case may be, from time to time.

8. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the employees Provident Fund Organisation inter-alia for proper account of the receipts into and payments from the Provident Fund and the balance in their custody.

9. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner or an officer authorised by him.

10. The accounts of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent Chartered Accountant annually. Where considered necessary, the Central Provident Fund Commissioner shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

11. A copy of the audited annual provident fund accounts together with the audited balance sheet of the establishment for each accounting year shall be submitted to the Regional Provident Fund Commissioner within six months after the close of the financial year. For this purpose the financial year of the provident fund shall be from the 1st of April to the 31st of March.

12. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and the employees by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay damages to the Board of Trustees for any delay in payment of the contributions in the same manner as an unexempted establishment is liable under similar circumstances.

13. The Board of Trustees shall invest the monies in the fund as per directions that may be given by the Government from time to time. The securities shall be obtained in the name of the Board of Trustees and shall be kept in the custody of a scheduled Bank under the Credit Central of the Reserve Bank of India.

14. Failure to make the investments as per directions of the Government shall make the Board of Trustees severally and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

15. The Board of Trustees shall maintain a serialwise register and ensure timely realisation of interest and redemption proceeds.

16. The Board of Trustees shall maintain detailed accounts to show the contributions credited, withdrawal and interest in respect of each employee.

17. The Board shall issue an annual statement of account to every employee within six months of the close of financial accounting year.

18. The Board may, instead of the annual statement of accounts, issue pass books to every employee. These pass books shall remain in the custody of the employees and will be brought uptodate by the Board on presentation by the employees.

19. The account of each employee shall be credited interest calculated on the opening balance as on the 1st day of the accounting year at such date may be decided by the Board of Trustees but shall not be lower than the rate declared by the Central Government under para 60 of the said Scheme.

20. If the Board of Trustees are unable to pay interest at the rate declared by the Central Government for the reason that the return on investment is less or for any other reason, than the deficiency shall be made good by the employer.

21. The employer shall also make good any other loss that may be caused to the Provident Fund due to theft burglary, defalcation, mis-appropriation or any other reason.

22. The employer as well as the Board of Trustees shall submit such returns to the Regional Provident Fund Commissioner as the Central Government/Central Provident Fund Commissioner may prescribe from time to time.

23. If the Provident Fund rules of the establishment provide for forfeiture of the employers' contribution in cases where an employee ceases to be member of the fund on the lines of para 69 of the said Scheme, the Board of Trustees shall maintain a separate account of the amounts so forfeited and may utilise the same for such purposes as may be determined with the prior approval of the Central Provident Fund Commissioner.

24. Notwithstanding anything contained in the provident fund rules of the establishment, if on the cessation of any individual from the membership of the fund consequent on retirement from service or on taking up the employment in some other establishment, it is found that the rate of contribution, rate of forfeiture etc. under the provident rules of the establishment are less favourable as compared to those under the statutory scheme, the difference shall be borne by the employer.

25. The employer shall bear all the expenses of the administration of the Provident Fund including the maintenance of Accounts submission of returns, transfer accumulations.

26. The employer shall display on the notice board of the establishment, a copy of the rules of the fund as approved by the appropriate authority and as and when amended there-to alongwith a translation of the salient points thereof in the language of the majority of the employees.

27. The "appropriate Government" may lay down any further conditions for continued exemption of the establishment.

28. The employee shall enhance the rate of provident fund contributions appropriately if the rate of provident fund contribution for the class of establishments in which his establishment falls is enhanced under the said Act so that the benefits under the Provident Fund Scheme of the establishment shall not become less favourable than the benefits provided under the said Act.

29. The exemption is liable to be cancelled for violation of any of the above conditions.

[No. S-35015(14)/89-SS.II]

A. K. BHATTARAI, Under Secy.

नई दिल्ली 18 जुलाई 1989

का.भा.1978—केन्द्रीय सरकार का यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित है, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ग) की उपधारा (6) के अनु-सरण में भारत सरकार के श्रम मंत्रालय की तारीख 25 जनवरी 1989 की अधिसूचना संख्या 375 के तहत दिल्ली दुग्ध योजना के अंतर्गत दुग्ध आपूर्ति उद्योग को उक्त अधिनियम के प्रयोजनार्थ 29 जनवरी 1989 से छह माह की कालावधि के लिए लोकउपयोगी सेवा घोषित किया था,

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त अवधि को और छह माह के लिए बढ़ाना अपेक्षित है,

अतः अब औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 2 के खंड (ग) की उपधारा (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनार्थ 29 जुलाई 1989 से छह माह की कालावधि के लिए लोकउपयोगी सेवा घोषित करती है।

[संख्या एल-11017/14/81-डी-1(ए)]

New Delhi, the 18th July, 1989

S.O. 1978.—Whereas the Central Government having been satisfied that the public interest so required had in pursuance of the provision of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the notification of the Government of India in the Ministry of Labour S.O. No. 375 dated the 25th January, 1989 the industry for the supply of milk under the Delhi Milk Scheme to be a public utility service for the purposes of the said Act, for a period of six months from the 29th January, 1989;

And, whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purpose of the said Act, for a further period of six months from the 29th July, 1989.

[No. S-11017/14/81-D.I(A)]

नई दिल्ली, 26 जुलाई, 1989

का.भा.1979—केन्द्रीय सरकार का समाधान हो गया है कि लोकहित में ऐसा करना अपेक्षित है कि भारत अन्तर्राष्ट्रीय विमानपत्तन प्राधिकरण में सेवा को, जो औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 27 के अन्तर्गत आती है, उक्त अधिनियम के प्रयोजन के लिए लोक उपयोगी सेवा घोषित किया जाना चाहिए,

अतः अब औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 2 के खंड (ब) के उपखंड (6) द्वारा प्रदत्त शक्तियों का

प्रयोग करते हुए केन्द्रीय सरकार उक्त उपयोग को उक्त अधिनियम के प्रयोजनों के लिए छह माह की अवधि तक के लिए तत्काल लोक उपयोगी सेवा घोषित करती है।

[एफ. नं. S-11017/1/87-डी० 1 (ए)]

New Delhi, the 26th July, 1989

S.O. 1979.—Whereas the Central Government is satisfied that the public interest requires that the service in the International Airports Authority of India, which is covered by entry 27 in the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purposes of the said Act for a period of six months.

[F. No. S-11017/1/87-D.1(A)]

नई दिल्ली 28 जुलाई, 1989

का.आ. 1980—भारत सरकार के पूर्व श्रम पुनर्वास मंत्रालय की तारीख 5 फरवरी 1963 की अधिसूचना संख्या का.आ. 461 के तहत गठित श्रम न्यायालय जिसका मुख्यालय मद्रास में स्थित है के पीठासीन अधिकारी का पद रिक्त हो गया है,

अतः अब औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 8 के उपबंधों के अनुसरण में केन्द्रीय सरकार थिरु एम. गोपाला स्वामी को पूर्वाक्त गठित श्रम न्यायालय का पीठासीन अधिकारी नियुक्त करती है।

[गं. एस-11020/7/81-डी० 1 (ए)]

नन्द लाल, अधर सचिव

New Delhi, the 28th July, 1989

S.O. 1980.—Whereas a vacancy has occurred in the office of the Presiding Officer of the Labour Court with headquarters at Madras constituted by the notification of the Government of India in the late Ministry of Labour and Rehabilitation No. S.O. 461 dated the 5th February, 1963.

Now, therefore, in pursuance of the provisions of Section 8 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby appoints Thiru M. Gopalaswamy as the Presiding Officer of the Labour Court constituted as aforesaid.

[No. S-11020/7/81-I.R. (Policy)]

NAND LAL, Under Secy.

नई दिल्ली, 19 जुलाई, 1989

का.आ. 1981—उत्प्रवास अधिनियम 1983 (1983 का 31) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, श्रम मंत्रालय के अधर सचिव, श्री एम. एस. रंगरी को 11 जुलाई 1989 से 18 जुलाई 1989 की अवधि के दौरान उत्प्रवासी संरक्षी कार्यालय, दिल्ली में उत्प्रवासी संरक्षी दिल्ली के सभी कार्यों को करने के लिए प्राधिकृत करती है।

[सं. ए - 22012/1/89 - उत्प्रवास]

New Delhi, the 19th July, 1989

S.O. 1981.—In exercise of the powers conferred by Section 5 of the Immigration Act, 1983 (31 of 1983), the Cen-

tral Government hereby authorises Shri M. S. Tangry, Under Secretary, Ministry of Labour to perform all functions of the Protector of Emigrants, Delhi in the office of the Protector of Emigrants, Delhi during the period from 11-7-89 to 18-7-89.

[No. A-22012/1/89-Emig.]

का.आ. 1982—उत्प्रवास अधिनियम 1983 (1983 का 31) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार श्रम मंत्रालय के अधर सचिव श्री जे. पी. शुक्ला को 19 जुलाई 1989 से अगला आवेश जारी होने तक के लिए उत्प्रवास संरक्षी का कार्यालय, दिल्ली में उत्प्रवास संरक्षी दिल्ली के सभी कार्यों को करने के लिए प्राधिकृत करती है।

[सं. ए-22012/1/89 - उत्प्रवास]

प्रादीप सिंह, अधर सचिव

S.O. 1982.—In exercise of the powers conferred by Section 5 of the Immigration Act, 1983 (31 of 1983), the Central Government hereby authorises Shri J. P. Shukla, Under Secretary, Ministry of Labour to perform all functions of the Protector of Emigrants, Delhi in the office of the Protector of Emigrants, Delhi during the period from 19-7-89 till further orders.

[No. F. A-22012/1/89-Emig.]

PRADEEP SINGH, Under Secy.

नई दिल्ली, 31 जुलाई, 1989

का.आ. 1983—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ईस्टर्न कोलफील्ड लि. की डाबर कोलियरी सालनपुर ऐरिया के प्रबंधन से संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार को 36-7-89 को प्राप्त हुआ था

New Delhi, the 31st July, 1989

S.O. 1983.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Dabar Colliery under Salanpur Area of Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on 26-7-89.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA

Reference No. 51 of 1984

PARTIES :

Employers in relation to the management of Dabar Colliery under Salanpur Area of M/s. Eastern Coalfields Limited, Post Office Samdih, District Burdwan.

AND

Their Workmen.

PRESENT :

Mr. Justice Sukumar Chakravarty . . . Presiding Officer.

APPEARANCES :

On behalf of employer.—Mr. B. N. Lala, Advocate.
On behalf of workmen.—None.

STATE West Bengal.

INDUSTRY : Coal.

AWARD

By Order No. L-19012(29)[84-D.IV(B)] dated 26th October, 1984, the Government of India, Ministry of Labour & Rehabilitation (Department of Labour) referred the following dispute to this Tribunal for adjudication :—

“Whether the management of Dabar Colliery under Salanpur Area of M/s. Eastern Coalfields Limited P. O. Sandih (Burdwan) is justified in denying employment to Shri Dandpani Behara, over Burden Remover? If not, to what relief the workman is entitled and from what date?”

2. When the case is called-out today Mr. B. N. Lala, Advocate appears for the management but nobody appears for the workmen. It however appears that a petition has been sent by the General Secretary of the Union stating that the Union is not interested to proceed with the reference and praying for a “No Dispute Award”. Mr. Lala submits that in view of the aforesaid petition filed by the General Secretary of the Union a “No Dispute Award” be passed.

3. On a perusal of the petition and hearing the submission of Mr. Lala, I have no other alternative but to pass a “No Dispute Award” on the basis of the aforesaid petition and accordingly I do so.

This is my Award.

Dated, Calcutta,

The 17th July, 1989.

SUKUMAR CHARAVARTY, Presiding Officer

[No. L-19012(29)[84-D.IV(B)]IR(C.II)]

नई दिल्ली, 7 अगस्त 1979

का.प्रा.1984—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार व रोजनल आफिस भारतीय खाद्य निगम, देहली के प्रबंधन से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण देहली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-8-89 को प्राप्त हुआ था।

New Delhi, the 7th August, 1989

S.O. 1984.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of Regional Office Food Corporation of India, Delhi and their workmen, which was received by the Central Government on 3-8-89.

BEFORE SHRI G. S. KALRA, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL
NEW DELHI

I.D. No. 17/85

In the matter of dispute between :

Shri Kalse & Ors. through Food Corporation of India
Worker's Union and others.

Versus

Food Corporation of India, Regional Officer,
The Regional Manager,

Food Corporation of India, Regional Officer,
Delhi Regions, New Delhi.

APPEARANCES :

Shri Narinder Chaudhary—for the workmen.

Shri Sameer Prakash—for the Management.

AWARD

The Central Government in the Ministry of Labour vide Order No. L-42015(3)[84-D.V. dated 25-4-1985 has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the action of the management Regional Office of Food Corporation of India Delhi Region in terminating the services of 87 employees with effect from the date mentioned against the names of the employees in the appended list is justified? If not to what relief are the workmen entitled?”

2. The list of the workers showing their names designation and date of termination supplied by the Ministry of Labour is attached with this award as Annexure I.

3. The employees of the Food Corporation of India, a body corporate established under Section 3 of the Food Corporation Act, 1964, raised certain demands in connection with their working conditions and wages. A Notification dated January 3, 1975 was issued by the Central Government stating that in its opinion as it was necessary and expedient for maintaining supplies and services essential to the life of the community and as any strike in the Food Corporation of India would prejudicially affect the maintenance and supplies of services essential to the life of the community, it was necessary and expedient to prevent strikes in the Food Corporation India, accordingly, in exercise of the powers conferred by Rule 118 of the Defence of India Rules, the Central Government prohibited strikes in connection with any industrial dispute in the Food Corporation of India for a period of six months with effect from January 4, 1975. Nevertheless the workers in the Naraina Food Storage Depot of the Food Corporation of India struck work with effect from January 28, 1975. By a notice of the same date the Food Corporation of India brought it to the notice of all concerned that the Central Government had prohibited strikes in connection with any industrial dispute in the Food Corporation of India and so the workers were notified that the strike in any form by the workers of the Food Corporation of India was illegal and any person or persons resorting to any such activity or activities were liable to be prosecuted under the Defence of India Rules, 1971. Despite this the workers did not report for duty and absented themselves. Another notice dated February 5, 1975 was issued by the Food Corporation of India informing the workers that they will not be paid wages for the number of days for which they remained absent from duty. The workers were also informed that according to para 14 of the Model Standing Orders contained in Schedule I of the Industrial Employment (Standing Orders) Central Rules, 1964 striking work or inciting others to strike work was against law and it would be treated as misconduct on the part of the workers and their services could be terminated without any notice or compensation in lieu of notice. The workers were notified that the illegal act of persons resorting to strike or inciting others to strike will be considered an offending act in terms of the aforesaid orders and action will be taken under the provisions of the aforesaid Model Standing Orders. By a memorandum dated February 23, 1975 and similar memorandums, but of different dates, the services of a large number of workers, purported to be on strike, were terminated.

4. The strike continued till March 10, 1975. The Food Corporation of India Workers' Union raised an industrial dispute with the Management is consequence of which conciliation proceedings were held. The dispute related to the termination of the services of 87 workmen. The dispute was that the services of the workmen had been terminated without conducting any enquiry and the workmen were not allowed to resume duty; the termination of services amounted to dismissal and was illegal and unjustified in terms of the

various clauses of the Model Standing Orders. The matter went for reconciliation. Till January 17, 1978 out of 87 workers whose services were terminated 71 workers were re-employed by the Food Corporation of India. The re-employment was on the basis of the letters written by each of the workers seeking re-employment.

5. Eight workers who were set re-employed challenged their dismissal by filing C.W.P. Nos. 777, 852 to 857 and 553 of 1978. The dismissal of workmen and the order of the appropriate Government declining to make a reference passed on January 17, 1978 was challenged by the Union by filing C.W.P. No. 170 of 1979. All these petitions were heard together by a learned Single Judge of the Delhi High Court who disposed of the petitioners by a common judgment dated February 18, 1980.

6. The criminal cause pending against the workers, particularly the eight writ petitioners, did not succeed.

7. The workers' union challenged the order of the appropriate Government dated January 17, 1978 on diverse grounds. It contended, inter alia, that recourse could not be had to the provisions of the Model Standing Orders as the same had no application, no notice under Section 9 of the Industrial Disputes Act had been issued for their adoption as conditions of service, that no enquiry of any sort was conducted into the alleged misconduct or misconducts of the workmen concerned, that there was no application of mind to the cases of individual workmen that the grounds taken by the appropriate Government in declining to make a reference were irrelevant; and that the termination of services of the workmen amounted to unfair labour practice and victimisation. As all these aspects were not taken into considerations while declining to make a reference, the order was liable to be set aside, that the Union was settled to pray for a writ of mandamus to the appropriate Government to make a reference of the industrial dispute by it on behalf of the workmen.

8. The eight workmen who came by way of writ petition challenged the individual orders of dismissal passed against them on various grounds. They contended that their services could not be terminated by invoking para 14(3)(k) of the Model Standing Orders as the Model Standing Orders had not been adopted as conditions of service by a prior notice under Section 9 of the Industrial Disputes Act, that the reasons given for termination of service amounts to dismissal for misconduct but even under the relevant clauses of the Model Standing Orders they could not be dismissed for misconduct without a proper enquiry being held in respect of each of the workmen and the dismissal amounts to an act of victimisation and unfair labour practice.

9. The learned Single Judge came to the conclusion that participating in the illegal strike amounted to misconduct in terms of para 14(3)(k) of the Model Standing Orders. An enquiry, therefore, had to be held after charge sheeting individual workmen and satisfaction under para 14 could not be recorded in the absence of it. No finding with regard to an individual workmen as to whether that individual workmen struck work or incited others to strike could be recorded in the absence of a proper enquiry. Therefore, the termination of service was in violation of the requirements of the Model Standing Orders making the termination of services illegal.

10. The learned Single Judge further held that the appropriate Government declining to make a reference was bad in law. The appropriate Government, presumably, taking into consideration the criminal cases pending against 15 workers and the fact of the whereabouts of one worker not being known came to the conclusion that it was not expedient to make the reference asked for. The learned Single Judge found the reasons given to be no reasons in the eyes of law. Thus, the contention of the Union in its petition was upheld.

11. Although the learned Single Judge came to the conclusion that the termination of service of the individual

workman who had approached the court was illegal, nevertheless on a conspectus of the entire situation the learned Single Judge issued a mandamus to the appropriate Government to reconsider the matter and make a reference in respect of eight workmen. He did not order reinstatement of the individual workmen as he was of the view that the alleged misconduct could be established in the proceedings before the Labour Court/Tribunal if the Food Corporation of India so opted on a reference being made by the appropriate Government. Thereafter the Union filed L.P.A. 142 of 1980 before a Division Bench of the Delhi High Court on two fold grounds. First, that once the learned Single Judge had come to the conclusion that the termination of service was bad in the eyes of law, there was no option but to order reinstatement. Secondly, the Union apart from its challenge to the order of the appropriate Government declining to make a reference had also challenged that the termination of service of all the workmen was bad in law and, therefore, they were entitled to reinstatement.

12. The Division Bench of Delhi High Court disposed of the L.P.A. filed by the Union vide order dated 18-5-84, the operative parties of which reads as under :—

"We find ourselves in full agreement with the learned Single Judge that the orders of termination are bad in the eyes of law. Likewise, we find ourselves in agreement with our learned brother's view that the order declining to make the reference was also unsustainable. It is obvious that a mandamus to the appropriate Government to make a reference of the dispute raised by the Union and simultaneously ordering reinstatement by quashing the order of termination of service cannot both stand together. After holding that the termination of service is bad in law, and then directing the making of a reference to have that very point adjudicated by the Labour Court/Tribunal can not be reconciled. Therefore, the learned Judge was right in choosing one relief instead of giving separate reliefs which may have amounted to be in conflict with each other. Learned Counsel for the appellants, however, contended that individual reliefs cannot be denied to at least the eight workmen who have approached the court.

As has been noticed earlier, the strike took place some nine years ago. The dismissal was also almost nine years back. The writ petitions were, no doubt, filed in 1978 and were disposed of in 1980. The Letters Patent Appeals which have come up for hearing before us now were filed in 1980. In the very nature of things as the delay in court has created a complication, the parties can not be blamed. At the same time nor can the court be blamed for not disposing of the matter earlier, as delays have to take place on account of the huge pendency of work. A practical solution, therefore, has to be found delivered from technicalities.

One other point which needs to be taken care of is that the Union had put forth a challenge with regard to dismissal of all the 87 employees and not merely the eight writ petitioner. The Union had also raised the contention that re-employment of some of the dismissed employees as fresh entrants was unjustified. On this aspect the learned Single Judge has made no comments. He has restricted the direction to make a reference in regard to only eight former employees who still have not been re-employed. Learned counsel for the appellant submitted that this was not justified. He contended that if in the reference to be made by the appropriate Government it is held that the dismissal of 87 employees was bad then some of the employees who have been re-employed would be entitled to the benefit of continuous employment. It would be unfair if the continuous employment is ordered in respect of only eight erstwhile employees and not in respect of the others who are also similarly placed.

We have given our earnest consideration to the problem. We are in agreement with the learned Single Judge, as noticed earlier, that the orders of termination were in violation of the requirements of the Model Standing Orders and so, were bad. We are also in agreement with the learned Single Judge that in the reference made the Food Corporation of India would, if so opted, have the right to justify the termination of service. Therefore, we are of the view that the direction to the appropriate Government has to be to reconsider the entire matter again with a view to making a reference in respect of all the 87 employees whose services were terminated in violation of the provisions of the Model Standing Orders. To this extent the mandamus ordered to be issued by the learned Single Judge will have to be modified and the mandamus has to be issued in terms of what we have observed above.

With regard to ordering reinstatement of the eight writ petitioners, we are of the view that though the termination of their services was illegal, being in violation of the provisions of the Model Standing Orders, it would not be appropriate to accept the appeals dismissing their writ petitions so far as the relief of reinstatement is concerned as (a) ordering reinstatement of eight employees would be discriminatory qua the other employees who were re-employed, and (b) it would amount to denial of the opportunity to the Food Corporation of India, which it has under the statute, to justify the termination of service in the proceedings before the Labour Court/Tribunal.

We are conscious that issuing a mandamus to consider the case once again with a view to making a reference at this stage when nine years have elapsed would be a tedious exercise but we cannot but so direct as the order declining to make a reference has to be quashed. In any case, there is hope of some relief to the workmen as the relief of reinstatement to them would be unjustified.

The appeals are disposed of in terms of what we have observed above. The appeal of the Union (L.P.A. No. 142 of 1980) is partly accepted. The appeals filed on behalf of the workmen (L.P.A. Nos. 113, 122, 123, 124, 125, 131, 132 and 161 of 1980) are dismissed. There will be no order as to costs.

Sd/-

PRAKASH NARAIN, Chief Justice

Sd/-

CHARANJIT TALWAR, Judge"

May 18, 1984.

This is how this reference is before this Tribunal. The contentions of the parties before this Tribunal are similar to their contentions before the Hon'ble High Court of Delhi. In short the case of the workmen is that their services were illegally terminated without any show cause notice or enquiry and the same was contrary to law and in violation of the provisions of section 25 of the I.D. Act, and that the action of the Management under the Model Standing Orders was bad because the same was not in accordance with law and contrary to the principles of natural justice, as no notice was given to the workmen. It was further submitted that strike is a legal right under the I.D. Act and no revengeful step should be taken by the Management. It was prayed that since the termination of the workmen had been declared as bad in law by the Hon'ble High Court of Delhi, the workmen may be granted full back wages and seniority of service, grant of fresh appointment to the petitioners is an unfair labour practice because the termination of their service was void ab-initio.

13. The case of the Management is that subsequent to the termination of the services of the workmen the Manage-

ment on their representations decided to give them fresh appointment and this reappointment was accepted by workers and is a solemn agreement and hence binding on the workmen who are parties to the said agreement. It was further submitted that the Management is discharging functions declared to be essential to the life of the community and one could not get involved in conducting such elaborate enquiries against large number of workmen. The conduct of the workers and the absence of a categorical statement from any of the workers to the contrary and the admission of guilt by them, and their reemployment on the basis of their assurances, show that they were clearly guilty of participation in a strike. It cannot be doubted that the strike was illegal. It was denied that the termination of the workmen amounted to punishment and it was submitted that there was persistent and obdurate refusal on the part of the workmen to return to work in an industry which was discharging functions essential to the life of the community, and even if it is a punishment, the same was justified since the factum of strike is not in dispute; and the workers had in fact admitted their participation in strike. The workmen on leave had also participated in the illegal strike, and the leave was only used as a garb for participation in the said strike. The workers submitted an application for taking them into service and Management thereafter took a lenient view to give them fresh appointment. It was admitted by the workmen that they had participated in the strike. The management letters giving them re-appointment, have also stated that they admitted their misconduct and even if the Model Standing Orders are not applicable to the workmen, the factum of illegal strike is per se misconduct. Moreover, the circumstances of the present case show that it was not reasonably possible for the Management to conduct domestic enquiry in the atmosphere of terror that was created by the workmen during the strike days. Hence the Management justified its action as legal and valid.

14. As can be seen from the facts as stated above, the termination of the services of the workmen in terms of the Model Standing Orders has been held to be illegal by the Hon'ble High Court of Delhi. The ld. representative of the workmen contended that since the termination of the workmen have already been held to be illegal, the workmen should be reinstated with continuity of service and with full back wages. This contention of the ld. representative for the workmen are fallacious because if the workmen were to be reinstated with continuity of services and with full back wages on the basis of findings of the Hon'ble High Court of Delhi that the termination of the workman in terms of the Model Standing Orders is illegal, then there was no need for the Hon'ble High Court of Delhi to direct the Central Government to re-consider the matter and to make reference to this Tribunal. It is, therefore, apparent that this direction has been issued by the Hon'ble High Court of Delhi to enable the Management to justify its action before this Tribunal. The next contention of the ld. representative of the workmen are that the strike for the participation of which, the service of the workman were terminated, has been declared as legal by the Hon'ble High Court of Delhi. Nothing could be farther from the truth because neither there is any such finding by the Hon'ble High Court of Delhi that the strike was legal nor even an inference can be drawn from the judgment of the Hon'ble High Court of Delhi that the strike was legal. On the other hand the Management has placed on record a large number of documents Ex. M1 to M-25 which prove beyond any measure of doubt that the strike was illegal. In the first instance the Central Government vide its notification dated 3rd January, 1975, in exercise of the powers conferred by Rule 118 of the Defence of India Rules, 1971 had prohibited the strike in connection with any industrial dispute in the Food Corporation of India for a period of six months w.e.f. 4th January, 1975. However, in spite of this prohibition, the Union served a strike notice dated 27-1-1975 upon the Management, in which it was made clear that unless its demands were met, there would be strike w.e.f. 10-2-1975. However, the workmen of the FCI went on strike w.e.f. 28-1-75 only which was in clear violation of their own notice dated 27-1-75 and also contravened the provisions of section 22 of the I.D. Act. It is, therefore, manifest that the strike was illegal. Now it is not denied that the workmen whose services were terminated had participated in the

said illegal strike. In fact WW1 Bhagwant Singh who appeared on behalf of the Union of workmen has clearly admitted that the strike started in January, 75 and the workers including himself took part in that strike. This action of the workmen and the Union amounted to unfair Labour practice and the Management was justified in taking suitable action against them.

15. However, a new twist has been added to the matter in as much as all the workmen have been taken into service by the Management but on fresh appointment. The demand of the union is that the workman should be reinstated with continuity of service and full back wages instead of being given fresh appointment. Thus the dispute gets boiled down to the extent of seniority and back wages for the period between termination and re-appointment. The contention of the Management is that the workmen were re-appointed only after they had submitted in writing that they had participated in the strike and expressed apologies, and thereafter, appointment offered to them was accepted by them and hence they are estopped from claiming continuity of service and back wages. I have been led through the applications submitted by the workmen and the appointment letters issued by the Management and the subsequent acceptance of the appointment by the workmen, but in none of them the workmen had specifically given up their claim for continuity of service and back wages and the question of estopped does not arise. It was a case of "Marta, Kya Na Karta". The workmen had been out of job for almost one year and in some of their applications they have stated that they were in dire straits and it appears that it was out of the economic compulsion that the workmen accepted the offer of fresh appointment. There are only general allegations that the workers indulged in violence and acts of terror during the strike but no specific charges were admittedly brought against any of the workmen. Out of 87 workmen, 8 of them were prosecuted for indulging in violence but they also were ultimately acquitted by the High Court of Delhi. The Management never proceeded departmentally against any of these workmen. These workmen have admittedly been serving the Food Corporation of India for a long period. The punishment of complete break in service alongwith denial of back wages appears to be somewhat harsh. It is, therefore, directed that these workmen be treated as having been reinstated with continuity of service but they shall not be entitled to any back wages or any arrears accruing on account of their being reinstated with continuity of service. This reference stands disposed of accordingly.

Further it is ordered that the requisite number of copies of this award may be forwarded to the Central Government for necessary action at their end.

G. S. KALRA, Presiding Officer.

27th July, 1989.

[No. L-42015(3)/84-D.V/TR(C-II)]

नई दिल्ली, 8 अगस्त, 1989

का. अ. 1985.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैजिस्ट्रेट ईस्टर्न कोलफील्ड्स लि. की नबा काजोरा कोलियरी के प्रबंधन में संवर्धन नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसंसोल के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 2-8-89 को प्राप्त हुआ था।

New Delhi, the 8th August, 1989

S.O. 1985.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure in the industrial dispute between the employers in relation

to the management of Naba Kajora Colliery of M/s. Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on 2-8-89.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL ASANSOL

(In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947).

Reference No. 7 of 1987

PARTIES :

Employers in relation to the management of Naba Kajora Colliery of M/s. Eastern Coalfields Ltd., P. O. Kajoragram, Dt. Burdwan.

AND

Their Workman

PRESENT :

Shri S. K. Misra,
Presiding Officer.

APPEARANCES :

For the Employers.—Sri P. K. Das, Advocate.

For the Workman.—Sri D. Mukherjee, Advocate.

INDUSTRY : Coal.

STATE : West Bengal.

Dated, the 19th July, 1989

AWARD

By Order No. L-19012(42)/87-D.IV(B) dated the 22nd September, 1987, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal for adjudication :—

"Whether the action of the Management of Naba Kajora Colliery of M/s. E.C. Ltd., P. O. Kajoragram, Dist. Burdwan in dismissing Sri Budhan Turi, Underground Loader from 5-2-82, is justified ? If not, to what relief the concerned workman is entitled ?"

2. The case of management of Naba Kajora Colliery of M/s. Eastern Coalfields Ltd., Burdwan, as appearing from the written statement-cum-rejoinder submitted, details apart, is as follows :—

Sri Budhan Turi was working as an underground Loader of Naba Kajora Colliery. He was found absenting from his work with effect from 1-12-80 unauthorisedly and without any information to and permission of the management or without any satisfactory reason. Since he did not report for duties and did not inform the management of his unauthorised absence till 3-7-81, the Manager issued a charge-sheet against him for his misconduct of absenting from work unauthorisedly and without any information to or permission of the management. He did not care to submit his explanation to the chargesheet nor did he inform anything regarding his unauthorised absence. Since he did not submit any explanation, the management decided to hold domestic enquiry into the charges levelled against him and appointed Sri A. P. Yadav, Sr. Personnel Officer, Naba Kajora Colliery as Enquiry Officer. The Manager issued a notice dated 27-8-81 informing him to attend and participate in the enquiry to be held on 4-9-81 at 11 a.m. The concerned workman received the registered letter on 2-9-81, but he did not appear in the domestic enquiry. The Enquiry Officer could have proceeded ex parte on 4-9-81 but as a gesture of good will and conformance to natural justice he provided another opportunity to the concerned workman by issuing another registered letter dated 5-9-81 fixing

the date of enquiry on 27-9-81. The concerned workman did not attend the enquiry and in such a predicament the Enquiry Officer had no alternative than to hold ex parte enquiry. After holding ex parte enquiry the Enquiry Officer submitted his report finding him guilty of misconduct under clause 17(1)(n) of the Model Standing Orders. The competent authority after perusal of the enquiry papers, documents and findings arrived at the conclusion that for such a grave and irresponsible misconduct, punishment of dismissal from service would meet the ends of justice. Accordingly dismissal order was communicated to him by letter Ref. No. NK/Sr. P. O/14/82/53 dated 12/13-2-82, but the letter was returned undelivered. However, the order of dismissal from service has since been handed over to the concerned workman. He approached the Manager with an application and medical certificate but the Manager expressed his regret to do anything in the matter in the context of facts stated before. The concerned workman absented unauthorisedly for a period of nine months without any information, application and medical certificate of illness. This is considered to be a grave misconduct and hence the employers could have discharged him from service under the provisions of Model Standing Orders but took recourse to natural justice and proceeded accordingly.

In the circumstances, the management has submitted that there is no substance in the case of the union and prayed that the instant reference be dismissed.

3. The case of the concerned workman, as appearing from the written statement submitted by the sponsoring union, Khan Shramik Congress, hereto of details is as follows :—

Sri Budhan Turi the concerned workman was a permanent underground loader of Naba Kojora Colliery. He suffered mental imbalance and disorder and had to remain under the treatment of an eminent Mental Disease Specialist of Ranchi Mental Hospital from 11-1-81 to 26-1-84. In course of time he was cured of his illness and was granted a certificate of illness and fitness. The management was informed of his illness by a letter dated 10-1-81 sent by ordinary post. He reported for duty on 8-2-84 and submitted joining report along with medical certificate which was duly received by the management on the same date. He approached the management for allowing him to resume his duty but in vain. He was not allowed to resume his duty nor was he given any reply to his joining report dated 8-2-84. The union has denied that the concerned workman received any chargesheet or notice of enquiry from the management. It has been alleged that no enquiry was conducted by the management and had there been any enquiry, the proceeding of enquiry, findings and other relevant documents with proof of receipt of letter of the management could have been made available to the concerned workman during discussion/conciliation proceeding. Even the order of dismissal was not communicated to the concerned workman. The domestic enquiry is illegal and unjust and that has been held without conformance to the principles of natural justice. The concerned workman should be considered to be on the rolls of the management in the absence of any proof of receipt chargesheet or notice of enquiry by him.

In the circumstances, the sponsoring union has prayed that the action of the management be held to be unjustified and the concerned workman be reinstated in service.

4. In rejoinder to the written statement of the sponsoring union the management has asserted that the certificate of sickness should have been sent by registered post to the management by the concerned workman. The enquiry proceedings and findings will bear out the position that a domestic enquiry was held in conformance to the principles of natural justice. The question of placing reliance on the certificate of the Doctor did not arise because it was never produced before the dismissal from service.

5. In rejoinder to the written statement of the management the sponsoring union has reiterated its denial of the receipt of any chargesheet or any communication regarding the domestic enquiry. The domestic enquiry held ex parte is

malafide, illegal and unjust. The management has not published the chargesheet or date of enquiry in the local newspaper. The management is again faulted in not taking any cognizance of medical certificate produced by the concerned workman.

6. Since none of the parties arrayed has prayed for hearing the preliminary issue on the point of fairness or otherwise of the domestic enquiry, the case was heard on merits. In course of hearing the management has examined three witnesses namely MW-1 Sri Mahendra Singh, MW-2 Sri S. K. Mukherjee and MW-3 Sri A. P. Yadav the Enquiry Officer and laid in evidence a sheaf of documents which have been marked Exts. M-1 to M-8. On the other hand, the sponsoring union has examined the concerned workman as WW-1, Sri Balkishun Jaiswara as WW-2 and Dr. B. P. Sinha on commission as WW-3. The union has also produced the medical certificate issued by the Doctor which has been marked Ext. W-1 and two prescriptions which have been marked Exts. W-2 and W-2/a.

7. Admittedly Sri Budhan Turi was an underground workman of Naba Kojora Colliery. The written statement of the sponsoring union emphatically discloses the fact that he was an underground loader and was working as a permanent workman in the said colliery. This fact has not been disputed by the management. That being so, the inescapable conclusion is reached that Sri Budhan Turi was employed as a permanent workman of Naba Kojora Colliery and was working as an underground loader. It is an irrefragable position that Budhan Turi started absenting from duty with effect from 1-12-80. It has been asserted by the management that he did so unauthorisedly without any intimation to or permission of the management or without any satisfactory reason. The sponsoring union has contended that he provided information of his absence from duty on the ground of illness by letter dated 10-1-81 sent by ordinary post. No copy of this letter has been produced nor has the union called upon the management to produce the original letter. Sri Budhan Turi in his testimony has stated that he informed his wife at the colliery about his mental disorder and that the fact of his illness was reported to the management from the hospital by post. The wife of Budhan Turi has since left the mortal world. No vestige of evidence has been produced by the sponsoring union to evince that the illness of the concerned workman was reported to the management from the hospital by post. WW-2 Sri Balkishun Jaiswara has stated that they approached the management to grant leave to the concerned workman for his treatment since the latter had fallen seriously ill. But the evidence of this witness is not worthy of credence in view of the fact that it is not the use of the sponsoring union that the co-workers of the concerned workman reported his illness to the management. In the circumstances I come to the conclusion that the concerned workman started absenting from duty from 1-12-80 without providing any intimation to the management.

8. It is garnered on evidence that the fact of Sri Budhan Turi's absence from duty was reported to the management and the management was constrained to issue chargesheet dated 3-7-81 (Ext. M-1) against him. The chargesheet discloses that since the concerned workman was absenting from duty without any permission and satisfactory cause on and from December, 1980 till the date of issuance of chargesheet and since his act of absence from duty without permission and satisfactory cause amounted to misconduct as per clause 17(1)(n) of the Model Standing Orders for Industrial Establishment in Coal Mines, he was asked to show cause within three days of the receipt of the chargesheet as to why disciplinary action would not be taken against him for his misconduct. This chargesheet was issued to Sri Budhan Turi at his colliery address. MW-2 Sri S. K. Mukherjee has stated the chargesheet was sent to Sri Budhan Turi by registered post at his address as recorded in the office records and that the registered cover was returned undelivered. No evidence has surfaced as to what was the address of the concerned workman as recorded in the office records. That apart, the management has not produced any evidence in proof of the fact that the show cause notice was sent to the concerned workman by registered post at his address as recorded in the

office record. Any way, the fact remains that the chargesheet could not be served upon the concerned workman. The management decided to hold domestic enquiry despite the fact that the chargesheet could not be served upon him. The notice of enquiry dated 27-8-81 (Ext. M-2) fixing the date of enquiry on 4-9-81 at 11 a.m. in the office of the Agent, Naba Kajora Colliery was addressed to the concerned workman also at his colliery address. MW-2 has stated that the notice was sent under registered post and it was received by the incumbent. But the postal acknowledgement receipt (Ext. M-3) does not indicate that it was received by the concerned workman. It is admitted fact that the Enquiry Officer did not proceed with the enquiry on 4-9-81 and the next date was fixed on 27-9-81. A notice dated 5-9-81 (Ext. M-4) was issued by the Enquiry Officer to the concerned workman at his colliery address. MW-2 Sri S. K. Mukherjee has claimed that this notice too was issued by regd. post. But no evidence in support thereof has been produced before me. The witness has further claimed that a copy of the notice fixing the date of enquiry on 27-9-81 was displayed on the Notice Board. But this notice also has not been produced before me. The management has not spared any pain to publish the fact that it decided to hold domestic enquiry into the charges levelled against the concerned workman and the dates of such enquiry in any local newspaper. The management has also admitted in its letter dated 12/13-2-82 (Ext. M-6) that the chargesheet and the notice of enquiry were returned undelivered to the management. In the circumstances, I am constrained to hold that the management has not given fair and proper opportunity to the concerned workman to deny dispute the charge levelled against him. As a matter of fact the concerned workman was not informed of the charge levelled against him. However, the Enquiry Officer found him guilty of the charge of misconduct of remaining absent from duty without any permission and satisfactory cause (Ext. M-8). It has been claimed by the management that the General Manager, Kajora Area by his letter dated 5-2-82 approved of his dismissal from service of M/s. Eastern Coalfields Ltd., with immediate effect. But this letter has not been produced before me. Instead the management has produced letter dated 12/13-2-82 (Ext. M-6) whereby the concerned workman was sought to be intimated that the General Manager, by his letter dated 5-2-82 approved of his dismissal from service. This letter too was addressed to the concerned workman at his colliery address. The management has not produced any evidence to prove that this letter was actually received by the concerned workman.

9. According to the case of the sponsoring union, the concerned workman was suffering from mental disorder and he was under the treatment of an eminent Mental Disease Specialist of Ranchi Mental Hospital from 11-1-81 to 26-1-84. The union has produced the medical certificate issued by Dr. R.P. Sinha, M.B.B.S. (Pat.) DPM (Ranchi) F.I.P.S.M.W.A. D.P. (Switzerland) Mental Disease Specialist, Ranchi Mansik Aragyashala, Kanke, Ranchi dated 26-1-84 certifying that the concerned workman was under his treatment from 11-1-81 to 26-1-84 and that he was suffering from mental disorder (Schizophrenia) Ext. W-1. The union has also produced the prescriptions of Dr. Sinha which have been marked Exts. W-2 and W-2/a. Dr. Sinha has been examined as WW-3. He has confirmed the fact that he examined one Budhan Turi and that he was under his treatment from 11-1-81 to 26-1-84 and that he was suffering from mental disorder. In cross-examination he has stated that Budhan Turi was suffering from non-specific type of Schizophrenia. The concerned workman has also stated that he was suffering from mental disorder and that he has got certificate about his treatment and fit certificate from the hospital. In cross-examination he has stated that he was treated as an indoor patient for about two years. But the Doctor has stated that he did not advise the patient to get admission in the hospital. This apparent inconsistency in the evidence of the concerned workman and the Doctor has led Sri P. K. Das, Advocate for the management to contend that the reported illness of the concerned workman is nothing but false. But I am afraid, I am unable to accept his contention. It must not be forgotten that Sri Budhan Turi, the concerned workman is an illiterate person. It is not expected of him the degree or modicum of sophistication as is expected of a man who is worldlywise and knowledgeable. The Doctor has empha-

tically stated that one Budhan Turi was under his treatment from 11-1-81 to 26-1-84 for mental disorder. There is no reason to disbelieve the evidence of the Doctor. Hence, I have no hesitation to hold that Sri Budhan Turi fell ill on account of mental disorder resulting from about of non-specific type of Schizophrenia and was under the treatment of the Doctor of Ranchi Mansik Aragyashala from 11-1-81 to 26-1-84 and that the Doctor declared him clinically cured and fit for duty by his certificate dated 26-1-84 (Ext. W-1).

10. In the context of facts and circumstances discussed above, I come to the conclusion that Budhan Turi the concerned workman remained absent from his duty without permission but not without any satisfactory cause since he was suffering from mental disorder and was under the treatment of a Specialist of Ranchi Mansik Aragyashala.

There is no evidence that the concerned workman remained absent on earlier occasions without prior intimation to the management. He is a hapless illiterate worker who is bereft of his wife and has no ostensible means to sustain himself. In these circumstances I would rather consider it a luxury on his part to remain absent from his duty without any sufficient cause and thereby to invite the scourge of punishment of dismissal from service.

11. In view of the facts and circumstances of the case, I am constrained to hold that the imposition of dismissal from service is disproportionate to the gravity of misconduct, if any, committed by the concerned workman. It follows therefore that the management is not justified in dismissing him from service with effect from 5-2-82. In fairness he should be reinstated in service by the management within one month from the date of publication of this award provided he is found medically fit. He should be given continuity in service by treating the period of his absence from duty from 1-12-80 till his resumption of duty as special leave without pay.

12. Accordingly the following award is rendered—The action of the management of Naba Kajora Colliery of M/s. Eastern Coalfields Ltd., Burdwan in dismissing Sri Budhan Turi, underground loader from service from 5-2-82 is unjustified. The management is directed to reinstate him in service within one month from the date of publication of this award and the concerned workman is directed to report for duty within such period. He should be given continuity in service by treating his absence from duty from 1-12-80 till his resumption of duty as special leave without pay.

In the circumstances of the case, I award no costs.

S. K. MITRA, Presiding Officer

[No. I-19012(42)/87-D.IV.B/IR(C.II)]

R. K. GUPTA, Desk Officer

नई दिल्ली, 3 अगस्त, 1989

का. भा. 1986.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मद्रास पोर्ट ट्रस्ट मद्रास के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण मद्रास के पंचपर को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-8-89 को प्राप्त हुआ था।

New Delhi, the 3rd August, 1989

S.O. 1986.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Madras Port Trust, Madras and their workmen, which was received by the Central Government on 2-8-1989

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMILNADU
MADRAS

Friday, the 16th day of June, 1989

PRESENT :

Thiru K. Natarajan, M.A., B.L., Industrial Tribunal.

Industrial Dispute No. 109/87

(In the matter of dispute between the workman and the Management of Madras Port Trust, Madras under Section 10(1)(d) of the Industrial Disputes Act, 1947)

Between the workman represented by

The General Secretary, Madras Port & Dock Employees Union, 16, Stringer Street, Madras-600108.

AND

The Chairman, Madras Port Trust, Rajaji Salai, Madras-600001.

REFERENCE :

Order No. L-33012/2/87-D.IV(A), dated 9-9-87 of the Ministry of Labour, Government of India, New Delhi.

This dispute coming on for final bearing on Thursday, the 11th day of May, 1989 upon perusing the reference, claim- and counter statements and all other material papers on record and upon hearing the arguments of Miss R. Vaigal, Advocate appearing for the workman and of Thiru R.G. Rajan Advocate for the Management and this dispute having stood over till this day for consideration, this Tribunal made the following :

AWARD

This dispute between the workman and the Management of Madras Port Trust, Madras arises out of reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India, in its Order No. 33012/2/87-D.IV(A), dated 9-9-87 of the Ministry of Labour for adjudication of the following issue :

"Whether the management of Madras Port Trust, Madras is justified in imposing on the workman Shri Rathinam, T. N. 200 Mazdoor, the penalty of reduction in pay by two stages for two years vide letter dated 30-10-85? If not, to what relief the workman is entitled to?"

2. The claim petition averments are that the Respondent was called for explanation from Rathinam for having arrived late around 2 P.M. instead of 12.30 P.M. on 15-10-1984. It was also alleged that when questioned, he quarrelled with S.I. (Sanitary Inspector) and used filthy and threatening language. The worker gave his explanation denying the charges. Then an enquiry was held. In the enquiry the questions were asked in Tamil and recorded in English. Strangely, questions were put to the worker by the Enquiry Officer and later he was cross-examined by the Defence Assistant. No other witnesses were examined. The answers recorded were entirely different from the ones given by the worker in Tamil. After this farce of an enquiry, show cause notice was issued to the worker after receiving reply denying the charges, the worker was asked to appear before the Chairman for personal hearing. The worker appeared and again denied the charges. Thereafter an order was passed imposing a punishment of reduction on the basic pay by two stages for two years with cumulative effect. The worker appealed to the Chairman denying any admission of guilt during the personal hearing and requested to withdraw the punishment. The appeal was rejected. Then this dispute was raised. The procedure adopted by the Enquiry Officer is totally illegal. Finding him guilty is perverse one. The worker never admit the guilty. The retire proceedings were opposed to the principles of natural justice. The work-

er has also earned merit certificate for good work in the past. This Tribunal may be pleased to pass an award declaring that the penalty of reduction in pay is unjustifiable and illegal.

3. The Respondent in his counter statement states that the worker Rathinam reported for O.T. work on 15-9-84 only for 14 hours instead of 12.30 hours. When he was asked about his late arrival by the Sanitary Inspector Asmath Basba, the worker Rathinam used abusive language and also threatened him that he would beat him when he comes outside. Hence disciplinary action was taken for the disorderly and riotous behaviour towards his superior staff. An enquiry was conducted. The delinquent was represented by his co-worker Govindaswamy. The Enquiry Officer found the charge proved and hence the punishment was imposed after giving show cause notice and getting an explanation from the worker. The worker during the personal hearing pleaded guilty to the charges. There were no irregularities committed during the enquiry proceedings. The petitioner has only stated that the recordings of the Enquiry Officer of the deposition in English is not correct. No motive has been alleged against the Enquiry Officer. The Petitioner himself since pleaded guilty before the Chairman during the personal hearing, the Chairman took a lenient view and awarded lesser punishment. The records of the Petitioner-worker was far from satisfactory. Hence the claim petition is liable to be rejected.

4. The point for determination is whether the enquiry is proper and valid?

5. Ex. W-1 to W-11 and M-1 to M-9 were marked by consent. No oral evidence was adduced on either side.

6. The learned counsel for the Petitioner without going into the merits of the case straightaway contended that the report of the Enquiry Officer is perverse. According to him, even the procedure adopted by the Enquiry Officer is also illegal. In this connection he would contend that the Enquiry Officer without asking the Management to lead evidence straightaway examined the delinquent, which is opposed to all canons of justice. W-3 is the Enquiry Proceedings dated 16-7-85. A look at the proceedings shows that the delinquent was examined straight away by the Enquiry Officer and subsequently cross examined by Govindaswamy. It is surprising to note that the Enquiry Officer instead of asking the Management-Respondent to prove its case by leading evidence, has started questioning the delinquent as if the enquiry officer is the representative of the Management. The Enquiry Officer has put the cart before the horse, thereby violating the very principle of natural justice. It is completely forgotten that only after examining the witnesses produced by the Management, the Enquiry Officer ought to have directed the delinquent to examine himself and his witness. In this connection law is laid down in 1963—II-I.L.J. page 392 (Meenglas Tea Estates vs. Its workmen). In that case certain workmen were charge-sheeted for unruly behaviour and for assaulting some superior officers. Explanations were submitted by them. Domestic enquiries were held by the Officers, who alleged to have been assaulted. No evidence was let in at the domestic enquiries. The concerned workmen were cross-examined by the enquiry officers. They did not tender themselves for cross-examination at the domestic enquiry. In the circumstances the Supreme Court held as follows :

"It is an elementary principle that a person who is required to answer a charge must know not only the accusation but also the testimony by which the accusation is supported. He must be given a fair chance to hear the evidence in support of the charge and to put such relevant questions by way of cross-examination as he desires. Then he must be given a chance to rebut the evidence led against him. This is the barest requirement of an enquiry of this character and this requirement must be substantially fulfilled before the result of the enquiry can be accepted. A departure from this requirement in effect throws the burden upon the person charged to repel the charge without first making it out against him."

7. In the light of this law having been laid down unambiguously in the above decision, I am constrained to hold that the enquiry conducted by the Enquiry Officer is not proper and valid. Consequently the findings arrived at by him are perverse.

8. Having found that the enquiry is not fair and valid, a question would arise whether the Respondent-employer should be given an opportunity to adduce evidence to justify the termination of service of the workman. In this connection, 1979-II--L.L.J. Page 194 (Shankar Chakravarti vs. Britannia Biscuit Co. and another) lays down the law in unmistakable terms. It has been held that there is no duty cast by rules of justice, reason and fair play with a quasi-judicial tribunal like the Industrial Tribunal or the Labour Court should adopt the advisory role by informing employer of its rights, namely the right to adduce additional evidence to substantiate the authorities when it failed to make good the domestic enquiry and then to give an opportunity to give additional evidence in the absence of such a pleading is raised and an opportunity is sought. In this case also the Respondent has neither pleaded in the counter nor made an oral request atleast before the Tribunal to adduce evidence to prove the alleged misconduct. In the absence of such a plea, this Tribunal is not duty bound to give an opportunity to adduce evidence. For these reasons, this point is found in favour of the Petitioner.

9. In the result, the action of the Management in imposing on the workman Thiru Rathiam the penalty of reduction in pay by two stages for two years as per letter dated 30-10-1985 is not justified. The Respondent is directed to pay the said workman the pay which he is entitled to but for the penalty of reduction imposed on him by a letter dated 30-10-1985. An award is passed accordingly. No costs.

Dated, this 16th day of June, 1989.

Sd/- K. NATARAJAN
Industrial Tribunal

WITNESSES EXAMINED

For both sides : None.

DOCUMENTS MARKED

For Workmen :

- Ex. W-1/15-10-84—Show cause notice given to workman (Copy).
- Ex. W-2/4-4-85—Memo ordering enquiry into the charges (copy).
- Ex. W-3/16-7-85—Proceedings of the Enquiry Officer (copy).
- Ex. W-4/9-8-85—Final show cause notice issued to the workman (copy).
- Ex. W-5/24-8-85—Explanation by the workman to W-4 (copy).
- Ex. W-6/17-9-85—Memo to workman to appeal for personal hearing (copy).
- Ex. W-7/30-10-85—Memo to workmen imposing punishment (copy).
- Ex. W-8/28-11-85—Workman's appeal against the order dt. 30-10-85 (copy).
- Ex. W-9/9-12-85—Letter from Management rejecting the appeal of workman (copy).
- Ex. W-10/9-1-86—Letter from Petitioner-Union to the Management requesting withdrawal of action against the workman (copy).
- Ex. W-11/16-6-86—Petitioner-Union's letter to the Management requesting withdrawal of action against the workman (copy).

For Management :

- Ex. M-1/15-9-84—Report from Sanitary Inspector (copy).
- Ex. M-2/15-10-84—Letter from Management to workman to submit explanation.
- Ex. M-3/4-4-85—Letter from Management to workman to attend enquiry.
- Ex. M-4/9-8-85—Show Cause notice issued to workman.
- Ex. M-5/17-9-85—Memo for personal hearing before the Chairman, Port Trust, Madras.
- Ex. M-6/30-10-85—Memo awarding punishment.
- Ex. M-7/28-11-85—Representation of workman to the Management requesting to withdraw the punishment imposed.
- Ex. M-9/8-9-86—Order of punishment imposed on the workman returning Ex. M-7.
- Ex. M-9/8-9-86—Order of punishment imposed on the workman (Xerox copy).

K. NATARAJAN, Industrial Tribunal

[No. L-33012/2/87-D.IV(A)/D.III(B)]

नई दिल्ली, 4 अगस्त, 1989

का. अ. 1987:—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत गोल्ड माइन्स लिमिटेड के. जी. एफ. के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलूर के पंचवट को प्रकाशित करती है जो केन्द्रीय सरकार को 1-8-89 को प्राप्त हुआ था।

New Delhi, the 4th August, 1989

S.O. 1987.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Govt. Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bharat Gold Mines Ltd., K.G.F. and their workmen, which was received by the Central Government on 1st August, 1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Dated, the 26th day of July, 1989

PRESENT :

Shri B. N. Lalge, B.A. (Hons) LL.B. Presiding Officer.
Central Reference No. 38/89

I Party

Shri Pooswamy, C/o BGM Employees' Union Marikuppam P.O. K.G.F. 563119.

Vs.

II PARTY

The Managing Director, Bharat Gold Mines Limited Oorgaum, K.G.F. 563120.

APPEARANCES :

For the I party—No representation.

For the II party—Shri K. J. Shetty, Advocate.

By exercising Award powers under section 10(1)(d) of the I. D. Act, the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its order No. L-43012/1/89-IR (Misc.) dated 16-5-1989.

POINT OF DISPUTE

"Whether the management of B.G.M.L., K.G.F. is justified in not correcting the date of birth of Sri Pooswamy, Banksman, from 1932 to 1-2-37 as per the transfer Certificate issued by South India Gouthama Buddhist Higher Primary School, Marikupam. If not, what relief is he entitled to?"

2. The first party workman was duly served with notice. He appeared at the K.G.F. camp on 15-6-89. He sought for time, it was granted. The matter had been fixed at Bangalore on 19-6-89. On that day the workman was waited for till 4.00 p.m. and he was called out several times. He was found absent. He has been placed ex parte.

3. The second party was then called upon to file its written statement and adduce evidence by affidavits.

4. The second party has filed its written statement and the affidavit of one Shri M. Balasubramanyam the personnel manager of the second party.

5. In the written statement filed by the second party it has been contended that when he joined service in February 1952, he had declared that he has 20 years old as on 11-2-52. It is then stated that in order to given an opportunity to the workmen to get their date of birth corrected if there is any mistake, the management had issued circular No. 2/4190 dated 2-12-1963 and 2/90 dated 3-4-1964. It is sworn by Subramanyam that inspite of the said opportunities, the first party workman had made no representation, and hence there was no occasion for the management to change the date of birth. The witness has also sworn that in the nomination for his provident fund, he had given his age as 20 as on 1-2-1952 and the said declaration has been accepted and he has been superannuated in accordance with law. Schedule 1 B of the Industrial Employment (standing orders) Central rules 1946 deals with the matter of record of age. In order No. (1) (iv), it states that every workman shall indicate his exact date of birth at the time of entering into service and that his such date of birth shall be recorded in the service card. Clause (c) states that cases where date of birth of any workman had already been decided on the date that these rules come into force, shall not be re-opened. The said rules have come into effect on 17-1-1983. It is obvious from the affidavit of Subramanyam that his date of birth has been already decided in 1952 and that he had not availed the opportunity to get it corrected in 1963 or 1964. It is thus obvious that he cannot endeavour to get it changed or corrected now. Secondly, the workman has not produced any evidence to show that even as on today, his correct date of birth is 1-2-1937. He is not entitled to any relief.

6. In the result, an award is passed to the effect that the B.G.M.L. was justified in not correcting his date of birth from 1932 to 1-2-37 and that he is not entitled to any relief.

(Dictated to the Stenographer, taken down by her, got typed and corrected by me).

B. N. LALGE, Presiding Officer
[No. L-43012/1/89-IR (Misc.)]

नई दिल्ली, 8 अगस्त, 1989

का. भा. 1988:—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के प्रनुसरण में केन्द्रीय सरकार इण्डियन एयर्लाइन्स नई दिल्ली के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच प्रनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 1-8-89 को प्राप्त हुआ था।

New Delhi, the 8th August, 1989

S.O. 1988.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Indian Airlines, New Delhi and their workmen, which was received by the Central Government on the 1-8-1989.

ANNEXURE

BEFORE SHRI G. S. KALRA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
NEW DELHI

I. D. No. 20/86

In the matter of dispute between :

Shri V. K. Gupta, 4267, Bahuji Street, Pahari Dhiraaj,
Delhi.

Versus

The Chairman, Indian Airlines, Gurdwara Rakab Ganj,
Road, New Delhi.

APPEARANCES :

Shri Rajinder Mathur— for the workman.

Shri Atul Sharma with Shri K. B. Swamy—for the
Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-11012(10)/84-D.II (B) dated 16-1-86 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the Management of Indian Airlines in terminating the services of Shri V. K. Gupta, Aircraft technician Palam Airport w.e.f. 12-4-82 is justified, If not, to what relief is the workman entitled to?"

2. The workman Shri V. K. Gupta had been working as an Air-Craft Technician with the Indian Airlines at Palam Airport and he was on duty on 31-7-1980 from 13.25 hours to 21.30 hours. On that night one carton containing on dinner set was recovered from the coach No. 3536 which had transported the passengers of flight No. IC 452(D) which arrived from Kabul. At that time, the workman was present at Airport when the carton was seized by the customs. The workman was placed under suspension on 11-9-80 and on 29/30-9-80 the following charge sheet was served upon the workman :

"Charge I.—That you were restored for afternoon duty on 31-7-80 and after your duty was over you punched 'out' your gate card at 21.31 hrs. It is alleged that on the above date you were found unauthorisedly in the operational/protected area, after your duty hours at about 21.35 hrs. near the aircraft which had operated an International flight No. IC1452 (D) from Kabul".

Charge II.—That at about 21.40 hours on 31-7-80 you were found sitting in I.A. passenger coach No. 3536 alongwith a Card-Board box. The said passenger coach had just been used for transporting the passengers who had arrived from Kabul by flt No. IC-452 (D) and was parked near the domestic sterile lounge. It later came to light that the above card-board box contained imported uncleared customs articles (37 pieces of dinner set)."

Charge III.—That when you were sitting in the passenger Coach No. 3536 as stated in Charge No. II above. Shri R. A. Misra, Driver of the above coach enquired from you about the ownership of the said card-board box. You replied that the same belonged to Mr. Sehgal. Further, when the Driver asked you as to who was Mr. Sehgal, you replied that you were Mr. Sehgal and thereby gave false identify."

Hereafter a domestic enquiry was conducted wherein charges 1 and 2 were held to be proved and charge No. 3 was held to be not proved. The workman was dismissed from service vide Order dated 12-4-82. An appeal preferred by the workman was rejected. Thereafter, he filed a civil suit No. 344/82 in the court of Sr. Sub Judge, Delhi but it was dismissed on the ground that the court had no jurisdiction. Then the workman raised the present industrial dispute. The workman challenged the order of his dismissal on the main ground that the domestic enquiry held against him was not fair and proper on account of various grounds mentioned by him in his statement of claim. The Management asserted that the enquiry conducted against the workman was fair and proper and the principles of natural justice were followed and the workman was given full opportunity to defend himself. This Court vide order dated 20-4-87 held the domestic enquiry to be vitiated for the detailed reasons given in the order and the order of dismissal from service passed on the basis of the enquiry was quashed, and the Management was given opportunity to prove the charges before this Tribunal vide order dated 20-4-87.

3. The trial of this case has been somewhat delayed because the workman had filed a writ petition before the Delhi High Court and obtained an order of stay of the proceedings and the further proceedings could be resumed only after the stay was vacated vide order dated 7-1-1988 of the Delhi High Court in CWP No. 2224/87.

4. The Management has examined MW-1 Shri S. P. Chopra Senior Traffic Superintendent, MW-2 Shri D. S. Bhatia, Traffic Superintendent, MW-3 Shri N. K. Sehgal, Sr. Technical Assistant MW-4 Shri M. A. Mishra Driver and MW-5 Shri Mahesh Anand Security Guard and MW-6 Shri K. S. Rawat, Security Superintendent, MW-7 Shri Ram Bharse Security Guard and MW-8 Shri G. S. Bhatia, Airdrome Officer. The workman examined his son Shri Raj Kumar Gupta as WW-1 and he himself stepped into the witness box as WW-2.

5. The charge No. 3 has not been proved and we are concerned only with charges No. 1 and 2 which are interconnected and can conveniently be considered together.

6. Some of the salient facts about which there is no dispute may be noted. It is admitted that on 31-7-80 flight No. IC 452(D) arrived from Kabul; that Shri N. K. Sehgal an employee of the Indian Airlines and Shri Raj Kumar Gupta son of the workman V. K. Gupta, arrived by the said flight at the Palam Airport on that night; that coach No. 3536 had transported the passengers of flight I.C. 452(D) from the Air Craft to the custom Hall; that a card board carton containing 37 pieces dinner set which is dutiable item under customs was found lying in the sail coach No. 3536; that the workman Shri V. K. Gupta was present inside the Security area of the Airport around that time; that the carton containing the dinner set was then taken to the customs and it was Ram Bharse Security Guard accompanied by the workman Shri V. K. Gupta, Mahesha Nand Sr. Security Guard and Shri K. S. Rawat, Shift Incharge; that the statement Ex. WW-2/M-1 dated 31-7-80 was given by the workman in the Security Guard Room at that time; that the carton containing the dinner set was then taken to the customs and it was seized by them; that the customs have passed order to the effect that the dinner set has been imported into the country in violation of restrictions imposed on its import and confiscated the same but no personal penalty was imposed on anybody.

7. The version of the Management about the above incident is that the flight from Kabul arrived at about 9.20 PM and that the dinner set was brought by Raj Kumar Gupta son of the workman and that the workman collected the carton containing the dinner set from the Aircraft and kept the same in the bus No. 3536 in which he was found sitting alongwith the carton. The version put forward by the workman is that the flight from Kabul arrived at 22.30 hours i.e. 10.30 PM and that he had never gone near the Air Craft nor was he present in the coach No. 3536 and that he was present only at the apron near the steel gate upto 10 PM and that he had nothing to do with the dinner set and that he gave his statement Ex. WW-2/M-1 in the Security Guard room reluctantly under pressure, and that he waited outside the custom hall till 11.30 when his son came out and then they went home.

8. First of all, the question of the time of arrival of the flight from Kabul on 31-7-80 may be examined. The workman made an application which has been dated as 3rd July, 1981 at (page 75 of the enquiry proceedings) requesting for a certificate stating the time of the landing of the flight No. 542(D) on 31-7-80. On this the Engineering Manager has given a certificate that the flight operated on 31-7-80 departure 1930 hours arrival 22.30 hours as per records. On the other hand the Management has placed on record a certificate issued by the Senior Airdrome Officer, Civil Aviation Department.

MW8/M1 which is duly proved by MWS Shri G. S. Bhatia, Aerodrome Officer. According to this certificate the flight No. IC 452 arrived at 15—50 GMT (21-20 IST) on 31st July, 1980. All the witnesses from MW1 Shri S. P. Chopra to MW7 Shri Ram Bharse have stated that the flight had arrived at about 9.30 or 9.35 P.M. Between the documents produced by the parties the documentary evidence produced by the Management is more reliable because the Directorate of Aerodromes is an independent body and there is no likelihood of any error cropping up in the recording of timings of the flights by airlines. The certificate furnished by the Engineering Manager produced by the workman appears to record the standard times of departure and arrival of the flight and not the actual timing of arrival. In any case there is no reason to disbelieve the statements of MW1 to MW7 in this regard. Hence it can be conveniently held that the flight IC 452(D) arrived at the Air Port between 9.20 to 9.30 P.M.

9. The workman in his statement WW2/M1 before the security Guard has stated that the carton found in the coach No. 3536 belonged to Mr. Sehgal O.S. P.P.C. as learnt by him. Now the said Mr. N. K. Sehgal has appeared as MW3 and he has stated that he was carrying only two registered baggages and 2 hand bags which he declared to the custom card that he was not carrying any other baggage/luggage. In his cross examination he categorically denied that he brought any dinner set with him as his separate cargo. Here it may be noted that Mr. Sehgal was charge sheeted and an enquiry was held against him for bringing the disputed dinner set but he was exonerated in the enquiry. Now there is not an iota of evidence nor any suggestion that the Management was favourably inclined to Mr. Sehgal or had any hostility towards the workman. From the evidence on record and from the manner in which the whole occurrence took place, the needle of suspicion could either point towards Mr. Sehgal or the workman who admittedly was present at the Airport on the night of 31st July, 1980 and is proved to have been present when the flight IC 452(D) arrived there. Mr. Sehgal stands cleared of the charge in the domestic enquiry held against him. The very fact that the Management charge sheeted him and carried out an enquiry against him goes to prove the bona fides of the Management and repels any suggestion of favouritism towards Mr. Sehgal or hostility towards the workman.

9. MW5 Shri Mahesha Nand a Senior Security Guard has stated that he had seen the workman near the air craft of flight IC 452(D) which arrived at about 21.30 hours. Later when he went to the hanger No. 1 he saw Ram Bharse and the workman coming towards hanger No. 1 and he enquired from Ram Bharse as to why he was carrying the card board box on his shoulder and to whom it belonged and on this Shri V. K. Gupta said that it was his box and it had to be given to Shri Sehgal, and then Shri Bhatia of Traffic department arrived and said that the box belongs to the customs and should be taken there and then Shri K. S. Rawat Shift Incharge came and asked to give it to security Guard, MW4 Shri R. A. Mishra who was a driver of the coach No. 3536 on 31st July, 1980 stated that after transporting the passengers he came back for parking the coach and when he stopped the coach Shri V. K. Gupta entered the coach and sat down on a seat. Then he got down from the driver seat and checked the back and later on he saw a card board box lying near Gupta's seat and when he enquired as to whom the box belonged, Shri Gupta replied that it could be Sehgal's box. MW1 Shri S. P. Chopra, Senior Traffic Superintendent stated that on 31st July, 1980 he entered the coach No. 3536 at about 21.40 hours for taking the same to the aircraft of IC 462 which was about to land at that time and when he entered the coach he saw V. K. Gupta sitting in the coach in such a manner that no one could see one card board box lying near his seat. He enquired from Shri V. K. Gupta

who replied that the card board box belonged to Mr. Sehgal and he was looking after the same whereupon the witness advised the security guard to take the parcel to the Security Guard Room and told Mr. Gupta to prove his ownership with the security. MW1 Shri Ram Bharose was working as Sr. Security Guard on the fateful night. He stated that at 21.25 hours he was standing near the Air Craft which had operated flight from Kabul to Delhi and after the passengers had left, he entered the coach which was parked and found Shri V. K. Gupta sitting in the coach. He also noticed Shri Chopra of traffic department sitting in the coach. Mr. Chopra enquired about the ownership of the box and Mr. Gupta replied that it belonged to him which he had to give to Mr. Sehgal. Then Mr. Chopra advised him to collect the box and deposit in the security. There is apparently no reason whatsoever to disbelieve the statements of all these witnesses. None of the witnesses is shown to bear any ill will towards the workman. The evidence of these witnesses goes to prove that the workman was very much present near the Air Craft which operated the flight from Kabul to Delhi and thereafter he was present in the coach No. 3536 alongwith the carton containing the dinner set. It appears that the workman made the mis-representation that the box belonged to Mr. Sehgal in order to save his own skin. Although there is no evidence that the dinner set was brought by the son of the workman or that it was carried by the workman to the coach No. 3536, yet the preponderance of probabilities favour this inference. After all, the dinner set could not have materialised out of the blue. The fact that Shri Raj Kumar Gupta son of the workman arrived by the same flight IC 452 from Kabul to Delhi and the workman Shri V. K. Gupta was present within the Security area of the Airport gives rise to an inference that the dinner set was brought by his son and was transported by the workman to the coach No. 3536 where the workman was seen alongwith the box by at least three witnesses. It may be observed here that if there was no hanky panky to be done by the workman, he need not have been present within the security area to receive his son and he could have waited outside the customs and received him which was the proper course. The version by the workman is unsupported by any independent evidence and stands disproved positively from the evidence produced by the Management and is hereby rejected.

10. In view of the discussion made above, the charges against the workman stand proved. The charges prove that the workman had indulged in undesirable activity of importing a dutiable article, which is bound to bring bad name to any organisation like Indian Airlines which is customer oriented organisation and that the workman has rendered himself unfit for retention in its service. However, the punishment of dismissal from service without any compensation for long service rendered appears to be a bit harsh. It may be noted that the dinner set imported by the workman is not contraband and is only a dutiable article. It could have been got cleared from the customs on payment of duty which may be a few hundred rupees. It is, therefore, directed that it shall be deemed to be a case of simple discharge from service and the workman shall be paid a sum of Rs. 1,00,000 (Rupees one lakh only) as lump sum compensation and the workman will have no other claim against the Management whatsoever. The Management shall forward a cheque or draft for the said sum of Rs. 1,00,000 to this Tribunal within one month of the enforcement of the award failing which it shall be liable to pay interest @ 15 per cent per annum and the amount with interest, if any, shall be deposited with the Post Master Parliament Street in the name of the workman in the Monthly Income Scheme. The workman shall be entitled to the Monthly income which is expected to be Rs. 1000 P.M. and the principal shall not be paid to him till he attains the age of 58 years. This reference stands disposed of accordingly.

25th July, 1989.

Further it is ordered that the requisite number of copies of this Award may be forwarded to the Central Government for necessary action at their end.

25th July, 1989:

G. S. KALRA, Presiding Officer
[No. L-11012/10/89-D. II(B)/D. III(B)]

का. आ. 1989—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्र सरकार पारादिप पोर्ट ट्रस्ट, पारादिप के प्रबंधन में सम्बद्ध नियोजकों और उनके कार्यचारों के बीच अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, भुवनेश्वर के पंचपट का प्रयोजन करता है जो केन्द्र सरकार को 2-8-89 का प्राप्त हुआ था।

S.O. 1989.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Paradip Port Trust, Paradip and their workmen, which was received by the Central Government on the 2-8-1989.

ANNEXURE A

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR, CAMP AT PARADIP

PRESENT:

Shri S. K. Misra, LL.B., Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar.

Industrial Dispute Case No. 40 of 1988 (Central)
Dated, Bhubaneswar, the 18th July, 1989

BETWEEN

The Management of Paradip Port Trust, Paradip ...First Party Management.

AND

Their workman Shri Chitrabhanu Mishra represented through the Vice-President, Paradip

Port and Dock Mazdoor Union. Second party Workman.

APPEARANCES:

(1) Sri H. K. Mohanty, Legal Officer

(2) Sri G. Swain, Legal Assistant of Paradip Port Trust, Paradip. ...For the First Party-Management.

Sri N. C. Panda, Vice-President of Paradip Port and Dock Mazdoor Union. ...For the Second Party-Workman.

AWARD

The Government of India in the Ministry of Labour, in exercise of the powers conferred upon them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), and by their order No. L-38012/1/88-D-II(B) dated 17-11-88 have referred the following dispute for adjudication by this Tribunal:

"Whether the action of the management of Paradip Port Trust in reverting Shri C. B. Mishra from the post of Disinfector to the post of Attendant w.e.f. 14th October, 1986 is justified. If not, to what relief is the workman entitled?"

2. In this proceeding the Vice-President of the Paradip Port and Dock Mazdoor Union (INTUC) has filed a statement of claim on behalf of the workman stating that the workman Sri Chitrabhanu Mishra, who had been working as a Ward Attendant under the Medical Department of the Paradip Port Trust was appointed as a Disinfector vide order of the Chief Medical Officer passed on 29-4-86 in the scale of pay Rs. 550 to Rs. 726 with other allowances as admissible from time to time. Sri Mishra worked as a Disinfector without any blemishes till 14-10-86 on which date for no reason his appointment as Disinfector was cancelled by the Chief Medical Officer. It is alleged that the nature of work in the posts of Disinfector and Ward Attendant was different. So also the promotional venue of both the posts were different. It is also alleged that with a view to show favour and accommodate another candidate named Sri R. N. Sethy, the appoint-

ment of Sri C. B. Mishra was cancelled and he was reverted to his former post i.e. Ward Attendant. This was opposed by the workman and the Union representing him, who raised a dispute, which, as aforesaid, has been referred for adjudication.

3. A written statement was filed on behalf of the management of the Paradip Port Trust in which the method of appointment to the post of Disinfector was elaborated and the reason for cancellation of the appointment of Sri C. B. Mishra was spell out. It is stated in the written statement of the management that the post of Disinfector can be filled up by transfer from Class-IV (non-technical) staff, failing which by direct recruitment. It is stated that for filling up the post of Disinfector either by promotion or transfer or by open advertisement, as the case may be, there are two Committees duly constituted under the Paradip Port Employees (Recruitment, Seniority and Promotion) Regulation, 1967. The committee which is required to deal with promotion case is known as D.P.C. (Departmental Promotion Committee). The committee which is required to deal with direct recruitment is known as S.S.C. (Staff Selection Committee). The constitution of the aforesaid two committees were circulated by the management of the Paradip Port Trust for information of all hands of department/offices. It is submitted in the written statement of the management that for appointment of a Disinfector for which advertisement had been made and applications had been received including the application from the second party-workman Sri C. B. Mishra and one Sri R. N. Sethy, the Chief Medical Officer constituted a committee consisting of himself, an Asstt. Surgeon-cum-Medical Officer, P.P.T. and the Dy. Manager (Management Services), P.P.T. This committee according to the management, was neither D.P.C. nor S.S.C. The committee constituted by the Chief Medical Officer for selection of a candidate for appointment as Disinfector drew-up a panel of three names consisting of the second party-workman Sri C. B. Mishra, who was placed at the No. 1 position and Sri R. N. Sethy, who was placed at the No. 2 position and another. Accordingly, appointment order was issued to the second party-workman Sri C. B. Mishra and he joined. The case of the management is that since the aforesaid committee constituted by the Chief Medical Officer was neither D.P.C. nor S.S.C., it was invalid and therefore, the Chairman of the Paradip Port Trust cancelled the selection made by it, which necessitated cancellation of appointment of the second party-workman Sri C. B. Mishra, as Disinfector. On cancellation of his appointment as Disinfector he was retransferred to his former post of Ward Attendant. It is further stated by the management in its written statement that subsequently, the duly constituted S.S.C. conducted interview of candidates and on their recommendations Sri R. N. Sethy was appointed as Disinfector. The management's case is that there was no favouritism shown to Sri Sethy by appointing him as Disinfector on his selection by the S.S.C. and further, the second party-workman Sri C. B. Mishra has not suffered any monetary loss or loss in seniority on his re-transfer to his former post.

4. On the pleadings of the parties, two issues were framed as below :—

(1) If the action of the management in reverting Sri C. B. Mishra from the post of Disinfector to the post of Attendant w.e.f. 14-10-86 is justified?

(2) To what relief, if any, the workman is entitled?

5. In this proceeding the second party-workman examined himself and he proved the documents Exts. 1 to 7 in support of his case that after having been duly appointed to the post of Disinfector he has been illegally and unjustifiably reverted to his former post. The documents proved by him, as I see considering the plea taken by the management in its written statement, supports his case for the reasons given below :—

The Chief Medical Officer called for applications from Class-IV employees for filling up the post of a Disinfector on promotion basis. Ext. 4 is a circular issued on 29th March, 1988 by the Chief Medical Officer to the said effect. The second party-workman made an application for the post by Ext. 7 dated 8-4-88 to the Chief Medical Officer. The second party-workman was called to appear at the interview which

was scheduled to be held on 13-4-88. Appointment order (Ext. 1) was issued on 29-4-86 appointing the second party-workman in the post of Disinfector and his continuity of service rendered as Attendant was directed to be counted towards increment in the post of Disinfector. He worked in the Post of Disinfector till 14-10-86, when by Ext. 2 his appointment was cancelled and he was reverted back to his former post with retrospective effect. I do not understand how there could be reversion to the former post with retrospective effect. The second party-workman protested against the action of the management by submitting representations to the Chief Medical Officer and the Chairman of the Paradip Port Trust by Ext. 6 and 5 since nothing happened the union raised a dispute before the Asstt. Labour Commissioner (Central), Bhubaneswar.

The order Ext. 2 by which the appointment of the second party-workman was cancelled with retrospective effect does not spell-out the reasons for which such an order was passed. The reason has been stated by the management in its written statement in paragraph-3 at page 2, where it has been stated since the process of selection of the second party-workman for appointment as Disinfector had not been done by the constituted S.S.C. as per rule, the Chairman of the Paradip Port Trust cancelled the selection. At this stage I may refer to the plea of the management in its written statement that the committee known as Departmental Promotion Committee was constituted to look after the cases of promotion and the committee known as Staff Selection Committee was constituted to look after the cases of direct recruitment. Management's specific case is that so far as the second party-workman is concerned his appointment was made against the post of Disinfector on transfer. Therefore, neither D.P.C. nor S.S.C. was required to consider the case in relation to the appointment and posting against the post of Disinfector which was a case of transfer. It appears from this that the reason for which the management cancelled the appointment of the second party-workman as Disinfector with retrospective effect was mis-conceived and non-existent.

The second party-workman stated in his evidence that he discharged his duties as Disinfector to the satisfaction of his superior authorities and that the cancellation of his appointment was unjustified. During his cross examination he stated that though the pay scale of a Medical Attendant and the pay scale of a Disinfector is same, the posts require performance of different duties. Besides, while a Disinfector is entitled to some allowance, a Medical Attendant is not entitled to any allowance.

6. After having heard the representatives of both parties and considering the pleas taken by the parties and after considering the documents filed and proved in this case, I would hold that the order Ext. 2 dated 14-10-86 passed by the Chief Medical Officer reverting the second party-workman Sri Mishra to his former post as Medical Attendant with retrospective effect was quite illegal and unjustified because the reason for which such an order was passed was non-existent. I would repeat that the management having come forward with the specific case that the selection and posting of the second party-workman as Disinfector was merely a case of transfer and not promotion, neither D.P.C. nor S.S.C. are at all come to the picture. Therefore, the appointment of the second party-workman as Disinfector by order Ext. 1 dated 29-4-86 on his selection by a committee constituted by the Chief Medical Officer was quite legal and valid. There was no valid reason to say that the said committee constituted by the Chief Medical Officer was illegal or invalid. Admittedly the Chief Medical Officer was the appointing authority in respect of the post of Disinfector and in order to choose the best one out of the candidates who had applied for that post he had every right to constitute a committee with himself as one of the members which he did.

7. In the circumstance, I will have no hesitation to hold that the reversion of Sri Chitrabhanu Mishra, the second party-workman with retrospective effect from the post of Disinfector in which post he had worked for six months to his former post as Medical Attendant is unjustified. I would further hold that Sri Mishra should be reinstated in the post

of Disinfector from which he has been transferred on reversion to his former post.

The reference is answered accordingly.

Dictated and corrected by me.

S. K. MISHRA, Presiding Officer

[No. L-38012/1/88-D.III(B)]

V. K. SHARMA, Desk Officer

नई दिल्ली, 4 अगस्त, 1989

श्री. आ. 1990—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सैलम भारत कोकिंग कोल लिमिटेड, जनरल मैनेजर (एक्जिक्यूटिव) हेड क्वार्टर के प्रबंधन से सम्बन्धित विवादों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम (सं. 2) धनबाद के पंचाद को प्रकाशित करती है जो केन्द्रीय सरकार को 26-7-1989 को प्राप्त हुआ था।

New Delhi, the 4th August, 1989

S.O. 1990.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2) Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of General Manager (Excv) Hd. Qrts., of M/s. B.C.C. Ltd., and their workmen, which was received by the Central Government on the 26-7-89.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri I. N. Sinha, Presiding Officer.

Reference No. 270 of 1987

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947

PARTIES :

Employers in relation to the management of General Manager (Excv) Hd. Qrts., of M/s. B.C.C. Ltd and their workman.

APPEARANCES :

On behalf of the workmen : Shri J. P. Singh, Advocate.

On behalf of the employers : Sri B. N. Prasad, Advocate

STATE : Bihar.

INDUSTRY : Coal

Dated, Dhanbad, the 18th July, 1989

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(48)/87-D.IV(B), dated, the 17th September, 1987.

SCHEDULE

"Whether the action of the General Manager (Excavation) Hd. Qrts. Bharat Coking Coal Ltd., Koyla-nagar, P.O. and Distt. Dhanbad in stopping Sri Ajit Kumar Singh, Fitter Helper (Trainee) from work is justified? If not, to what relief is the concerned workman entitled?"

The case of the workmen is that the concerned workman Shri Ajit Kumar Singh applied for the post of Auto Fitter Mechanic in BCCL. His name was also sponsored by the Employment Exchange. While he was called for interview/trade test he was asked to produce certificate and testimonials in support of his age, qualification, experience etc. In support of his experience he submitted a certificate issued by M/s.

Ratan Automobiles, Katras Road, Matkura in which it is stated that Shri Ajit Kumar Singh had worked in M/s. Ratan Automobiles from March, 1979 till 30-5-82. On the basis of the qualification, experience and interview/trade test the concerned workman was selected and appointment letter dated 12-1-84 was issued to him by Shri A. A. Jafri, the then Dy. Chief Personnel Manager (MP&R). By virtue of the said appointment the concerned workman joined the post and continued to work on the job specified in the appointment letter in the workshop at Mudidihi. On 18-2-84 the concerned workman was stopped from work without assigning any reason. RCMs, the union of the workmen, took up the matter of the concerned workman with the employer in respect of the illegal termination of the services of the concerned workman but no reply was given by the management. Thereafter the union raised the present dispute before the ALC(C), Dhanbad. During the conciliation before the ALC(C) the management took up the plea that according to the terms of appointment verification was made from M/s. Ratan Automobiles about the experience certificate granted to the concerned workman and that verification report was received from M/s. Ratan Automobiles showing that the concerned workman had never worked with them. The management had also contended during the conciliation proceeding that since there was no confirmation of the requisite experience and qualification, the concerned workman in terms of the appointment letter was stopped from work. The union contended that 2 persons namely S/Shri Ajit Bahadur Singh and Kameshwar Singh were also issued experience certificate by the firm M/s. Ratan Automobiles but their appointment on the basis of the certificate granted by Ratan Automobiles was not stopped from work. The verification report in respect of the concerned workman was not made available to the concerned workman or his union and hence the concerned workman and the union could not ascertain whether verification report was issued under the signature of the proprietor of M/s. Ratan Automobiles who had issued the initial experience certificate to the concerned workman. There was some foul play in the matter of verification with ulterior motive to get the concerned workman discharged from service so that interested persons may get their own persons appointed in his place.

M/s. Ratan Automobiles is the Firm which repairs the vehicles of M/s. BCCL and is under the control and influence of the management of M/s. BCCL. The concerned workman is quite in dark about the manner in which the verification report from M/s. Ratan Automobile was obtained. No opportunity was given to the concerned workman to explain the adverse verification report submitted by M/s. Ratan Automobile so that the concerned workman could have requested the management for a proper enquiry by competent officer of the management. The termination of the services of the concerned workman is a glaring example of unfair labour practice, vindictiveness and motivated. On the above facts it is prayed that the concerned workman should be reinstated with back wages from the date of the stoppage.

The case of the management is that there was a requirement of technicians and Fitters for the maintenance and repairs of excavation equipment and machineries. The Employment Exchanges were notified to sponsor candidates having requisite qualification and experience for filling up those posts. The concerned workman had been sponsored by the Employment Exchange. He was called for interview/trade test and to produce certificate and testimonials in support of his age, qualification and experience. In support of his experience he submitted a certificate which purported to have been issued by M/s. Ratan Automobiles, Katras Road, Matkura, Dhanbad stating that Shri Ajit Kumar Singh had worked with them from March, 1979 till 30-5-82, the date on which the certificate was issued. On the basis of the qualification, experience and interview the concerned workman was selected and an appointment letter dated 12-1-84 was issued to him. The appointment of the concerned workman was conditional and provisional subject to verification of experience certificate. Para-9 of the letter of appointment was very specific and clear about his experience certificate which was as follows :—

"9. This offer is subject to verification of your experience certificate. In case on verification it is found that the experience certificate is not genuine, your services will be terminated forthwith without giving any notice or assigning any reason."

The concerned workman also gave a declaration on 11-2-84 while accepting the offer of appointment that in case of verification of experience certificate, if it was found that the experience certificate was false/fake his services would be terminated forthwith as stipulated in para-9 of the terms of appointment. Thereafter the concerned workman was allowed to join and he was posted under the Executive Engineer (Excv) Mudidih. Shri A. Jafri the then Dy. Chief Personnel Manager (MP&R) made a reference to the Proprietor of M/s. Ratan Automobiles, Katras Road, Matkuria, Dhanbad vide his confidential Regd. letter dated 4-2-84 to verify as to whether the certificate of his firm produced by Shri Ajit Kumar Singh was genuine or not. The proprietor of M/s. Ratan Automobiles sent a reply to the Dy. Chief Personnel Manager (MP&R) vide his Regd. confidential letter dated 3-3-84 informing that Shri Ajit Kumar Singh had never worked with his firm and as such the question of genuineness of the certificate did not arise at all. Thereafter the services of the concerned workman was terminated by the management with immediate effect vide letter dated 4/5-5-1984 issued by Shri R. G. Singh, Dy. Chief Personnel Manager with the approval of the competent authority. The reasons and circumstances for the termination of the concerned workman was mentioned in the termination letter. As the experience certificate of the concerned workman was found to be false/fake the termination of the services by the company was done in accordance with the specific terms of his provisional/conditional appointment and the declaration given by the concerned workman. In absence of the requisite experience, the concerned workman was not eligible for appointment as trainee Fitter Helper in BCCL. He had secured appointment in fraudulent manner. Such an appointment was void abinitio and hence did not exist in the eye of law. The termination of the services of the concerned workman was therefore perfectly justified and legal. On the above facts it is prayed that it be held that the concerned workman is not entitled to any relief.

The points for decision in the case are :—

- (1) Whether the experience certificate granted to the concerned workman by M/s. Ratan Automobiles was false/fake and
- (2) Whether the management was justified in terminating the services of the concerned workman.

The management examined 2 witnesses and the workmen examined 3 witnesses in support of their respective case. The documents of the management are marked Ext. M-1 to M-10. No document has been exhibited on behalf of the workmen.

Point No. 1

It is the admitted case of the parties that the concerned workman was interviewed and finally selected to the post of Trainee Helper Fitter (Excavation). Ext. M-5 is the admitted letter of appointment dated 12-1-1984 issued to the concerned workman and accordingly the concerned workman had joined to work on the said post in the workshop at Mudidih. One of the terms laid down in the letter of appointment Ext. M-5 in para-9 is that the offer of appointment to the concerned workman was subject to verification of his experience certificate and that in case on verification it was found that the experience certificate was not genuine, his services will be terminated forthwith without issuing any notice or giving any reason. WW-1 Ajit Kumar Singh is the concerned workman. He has stated that he was appointed in BCCL in 1982 as Fitter Helper and that previously he was working in Ratan Automobiles as Fitter Mechanic for about 3 years. He has stated that the proprietor of the said Firm M/s. Ratan Automobiles granted him an experience certificate and that on the basis of the said experience certificate he got employment in BCCL as Fitter Helper. Thus it is clear from the evidence of the concerned workman himself that the experience certificate was granted by M/s. Ratan Automobile on the basis of which he got employment as Fitter Helper in BCCL. MW-1 Shri A. A. Jafri was Incharge of Recruitment of Man power in BCCL as Dy. Chief Personnel Manager. He has stated that Ext. M-5 is the appointment letter of the concerned workman Shri Ajit Kumar Singh bearing his signature and that the concerned workman was appointed on the basis of experience certificate produced by him. He has stated that the concerned workman was called for interview on the basis of the experience

certificate submitted by him. He has stated that after the appointment of the concerned workman, the concerned workman had filed a declaration Ext. M-6 in which the concerned workman declared that he has accepted offer of appointment letter dated 12-1-84 for the post of Trainee Helper Fitter (Excv) and he further declared that in case of verification of experience certificate, if it is found that the said experience certificate is proved to be false or fake his services will be terminated forthwith as stipulated in clause (9) of the terms of his appointment. It is clear therefore that there was a term in the letter of appointment Ext. M-5 that the offer was subject to verification of the experience certificate submitted by the concerned workman and in case it was found on verification that the experience certificate was not genuine, the services of the concerned workman was to be terminated forthwith without giving any notice or issuing any reason. Thus the appointment of the concerned workman was subject to the condition as laid down in clause (9) of the appointment letter Ext. M-5. Moreover, the concerned workman accepted in Ext. M-6 by declaring that in case of verification of experience certificate it was found that the said experience certificate was false/fake, his services will be terminated forthwith as stipulated in clause 9 of the terms of appointment. Thus there is no doubt that the offer of appointment was made to the concerned workman and the same was accepted by him with conditions that if the experience certificate filed by him was found to be false or fake on verification, the services of the concerned workman was to be terminated in accordance with the stipulation made in the appointment letter which was a term of appointment.

I have already discussed about the evidence that the concerned workman had filed an experience certificate of M/s. Ratan Automobiles on the basis of which interview letter was issued and the appointment was made. I have also discussed above that it was one of the terms of the appointment of the concerned workman while offering him appointment that it was subject to the verification of the experience certificate filed by the concerned workman and that in case the experience certificate granted by M/s. Ratan Automobiles was found to be false the services of the concerned workman was to be terminated forthwith without any notice to him. Now the question for decision is whether the experience certificate of M/s. Ratan Automobiles submitted by the concerned workman before the management was false/fake. MW-1 Shri A. Jafri has stated that the concerned workman made a declaration Ext. M-6. He issued Regd. letter to the concerned workman under his signature to M/s. Ratan Automobiles for verification of the experience certificate and in reply thereof he had received a Regd. letter Ext. M-8 from the Proprietor of Ratan Automobiles. Ext. M-7 is the photo copy of the Regd. confidential letter dated 4-2-84 issued under the signature of MW-1 Shri A. Jafri, Dy. Chief Personnel Manager (MP&R) to the Proprietor M/s. Ratan Automobiles Katras Road, Matkuria. Ext. M-8 dated 3-2-84 is the reply of the Proprietor, Ratan Automobiles to Shri A. Jafri Dy. Chief Personnel Manager, Karmik Bhawan, Dhanbad in reply to his letter Ext. M-7 and one another letter. The proprietor of M/s. Ratan Automobiles has stated that Shri Ajit Kumar Singh son of Shri Sachdeo Singh had never worked with him and as such the genuineness of his certificate does not arise at all. This letter Ext. M-8 was written by the Proprietor, Ratan Automobiles on the printed letter form in response to the letter of Shri Jafri. The Regd. Envelope Ext. M-9 has also been exhibited to show that a Regd. letter was sent by M/s. Ratan Automobiles to Shri A. Jafri. The genuineness of the letter Ext. M-8 does not appear to be fake if we read the evidence of the concerned workman WW-1. WW-1 has stated that no enquiry had been made from him prior to the stoppage of his work and that subsequently he learnt that his work was stopped on the report of Sri Bimal Kumar, Proprietor of Ratan Automobiles who had denied that the concerned workman had worked in his firm. He has stated that he had enquired from Ratan Automobiles and it was told that as the concerned workman had not worked they wrote about the same to BCCL. It is clear therefore that on enquiry from Ratan Automobiles the concerned workman was said on his face that as he had not worked in M/s. Ratan Automobiles the proprietor had written the letter that the concerned workman had not worked in the firm. The concerned workman has stated to the close of his deposition that he did not again ask for experience certificate from Ratan Automobiles. If the concerned workman had gone and enquired from the

proprietor of M/s. Ratan Automobiles about the experience certificate and if the certificate granted by M/s. Ratan Automobiles was true he could have again requested the proprietor of M/s. Ratan Automobiles to give him certificate that the experience certificate had been issued to the concerned workman by M/s. Ratan Automobiles and that the subsequent letter Ext. M-8 was not genuine. The concerned workman has stated that his attendance was marked and payment was made by Ratan Automobiles while he was working there but he did not call for those documents from M/s. Ratan Automobiles. The said documents were not in possession of the management of M/s. B.C.C.L. and it was upto the concerned workman to call for the same from M/s. Ratan Automobiles as the concerned workman was claiming that his attendance was being maintained and payment was made to him on some records. The workmen have examined WW-2 Suckhdeo Singh and WW-3 Rajender Rai who claimed to have worked in M/s. Ratan Automobiles, along with the concerned workman. The said 2 witnesses could not produce any paper to show that they had worked in Ratan Automobiles or that the concerned workman had worked along with them. It was the positive case of the workmen that the concerned workman had worked with M/s. Ratan Automobiles and as such it was for the workmen to give positive evidence by examining the Proprietor of M/s. Ratan Automobiles but the workmen did not examine the Proprietor of M/s. Ratan Automobiles nor called for any documents from the said firm to show that the concerned workman was working in M/s. Ratan Automobiles. In my opinion, the evidence of the witnesses examined on behalf of the workmen does not appear to be reliable.

Clause 9 in Ext. M-3 in the appointment letter was introduced by the management vide Ext. M-10. Ext. M-10 is the complete note to show that the said term was approved by the authorities and thereafter specific stipulation was made in the offer of appointment that if the documents regarding the experience, personnel particulars are found to be not genuine or fake, their services would be liable to be terminated without any notice or assigning any reason thereof. It will therefore appear from Ext. M-10 and the evidence of MW-2 that clause 9 was introduced in the appointment letter for verification after making offer of appointment and accordingly Shri A. Jafry had made the verification and found from the report of the proprietor Ratan Automobiles that the experience certificate granted to the concerned workman was not genuine and was not granted by M/s. Ratan Automobiles.

I hold, therefore that the experience certificate said to have been granted to the concerned workman by M/s. Ratan Automobiles was false/fake.

Point No. 2

As discussed above it will appear that the interview letter was issued to the concerned workman on the basis of the experience certificate submitted by him with the management and it was on the basis of the said experience that he got his appointment. The said experience certificate as discussed an' found above will show that the said experience certificate was false/fake and had not been granted by the proprietor of M/s. Ratan Automobiles. In terms of Clause 9 of the appointment letter Ext. M-3 it was one of the stipulation of the offer of appointment of the concerned workman that in case his experience certificate was false or fake, his services would be terminated without any notice to him. It will thus appear that the termination of the services of the concerned workman was done in accordance with the specific terms of his conditional appointment and declaration given by him. The management has referred to a case reported in 1987 Lab. I. C. page 390 (Iswardayal Sah-vrs-state of Bihar). The said case was in respect of appointment of Asstt. Teacher on temporary basis which was cancelled on the ground that he had obtained employment against the post reserved for the scheduled caste by submitted a false certificate of his caste. It was held in that case that the very cancellation of his appointment on the ground of its being void abinitio would not amount to removal within the meaning of Article 311 and the same is not at all attracted. Although the said case was in respect of Civil servant nonetheless the principles would apply in the case of the concerned workman as well. Their Lordship had referred and

based their decision on an earlier decision of the Full Bench of Hon'ble Patna High Court reported in 1983 Lab. I. C. 1984 (Vijay Kr. Bharti-vrs-state of Bihar). In the said decision Hon'ble N. P. Singh, Judge in his concurring judgement held "it cannot be disputed that whenever the services of a person appointed on temporary basis is terminated saying that the appointment in question had been made in an irregular or illegal manner, it does not amount to any stigma or penalty. In my view such orders cannot be held to be invalid because before passing such orders opportunities to show cause was not given to the person concerned. Such employees know very well that their services could be terminated at any time even without notice. Merely because in the order there is reference to the nature of their appointment will not change the legal position." Their Lordships finally concluded in 1987 Lab. I.C. that the very cancellation of an appointment on the ground of its being void abinitio would not amount to removal within the meaning of Article 311 of the Constitution and the same is thus not at all attracted to the situation. In our case it will appear that the concerned workman had got his interview and appointment on the basis of a fake experience certificate which was the basis of appointment. The said certificate has been confirmed to be fake and as such it appears that the appointment of the concerned workman was void abinitio in view of the fact that he had committed fraud in getting his appointment by producing a false and fake experience certificate. I hold therefore that the management was justified in terminating the services of the concerned workman.

In the result, I hold that the action of the General Manager (Excavation), Headquarters, Bharat Coking Coal Ltd. in stopping the concerned workman Shri Ajit Kumar Singh Filter Helper (Trainee) from work is justified and consequently the concerned workman is entitled to no relief.

This is my Award.

I. N. SINHA, Presiding Officer
(No. L-24012(48)/87-IV(B)TR(C-I)
K. G. DYVA PRASAD, Desk Officer

नई दिल्ली, 7 अगस्त, 1989

का. प्र. 1991—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक आफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच समुदाय में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 27-7-89 को प्राप्त हुआ था।

New Delhi, the 7th August, 1989

S.O. 1991.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employer in relation to the Union Bank of India and their workmen, which was received by the Central Government on the 28-7-89.

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL,
GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, KANPUR

Industrial Dispute No. 12 of 1986

In the matter of dispute between :

Shri V. S. Mishra, C/o Shri P. N. Tewari, General
Secretary, 165, Sohbatia Bagh, Allahabad.

AND

The Assistant General Manager, Union Bank of India,
Hotel Clark Awadh, Mahatma Gandhi Marg,
Lucknow.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-12012/89/85-D.II(A) dated 16-1-1986,

has referred the following dispute for adjudication to this Tribunal:—

Whether the action of the management of Union Bank of India in terminating the services of Shri V. S. Mishra, Head Cashier, Chowk Branch, Allahabad, with effect from 13-1-1982 is legal and justified? If not, to what relief the workman concerned is entitled

The admitted facts are that by means of chargesheet dt. 11-9-80, the workman Shri V. S. Mishra, then posted as Head Cashier in the Chowk Branch Allahabad of the Bank was charged for misconduct for doing acts prejudicial to the interest of the Bank, involving or likely to involve the Bank in serious monetary loss criminal breach of trust and misappropriation on the complaint of Shri R. A. Singh, proprietor of a Cinema house who had a current account in the said branch. The charges were that the workman received from the said customer Rs. 4200.65 4377.55, 2211.40, 4182.63 and 2946.66 paise totaling Rs. 18918.89 paise on 10-12-77, 19-12-77, 23-12-77, 9-8-77 and 10-8-77 but did not deposit the same in the account of the said customer. However, subsequently on 24/25th August, 1978, made payments of the first 3 amounts directly to him without reimbursing the remaining two amounts of Rs. 4182.63 and 2946.66 paise. Further the workman had received the sum of Rs. 540 on 10th August, 1977 for deposit in the current account of the said customer but instead of depositing the same on the same day, he deposited it on 17th August, 1977. Shri M. S. Sondhi, Supdt. was appointed Enquiry Officer. On 21-11-81, the E.O. gave his findings holding all the charges except the charge in respect of the sum of Rs. 540 as proved. The E.O. in his capacity as disciplinary authority proposed the punishment of dismissal from service and issued a show cause notice to the workman in this regard. After giving him a personal hearing the disciplinary authority confirmed the proposed punishment of dismissal from service. The workman went in appeal but the same was dismissed. He even filed an appeal before the Chairman cum Managing Director, but in vain. In respect of the aforesaid acts of the workman the bank filed FIR but in the criminal case, the workman was acquitted.

2 The workman's case is that E.O. as well as the appellate authority were not properly and validly appointed. According to him the E.O. was neither the appointing authority nor the punishing authority. The E.O. was biased against him and illegally pressurised him to accept the charges at the time of personal hearing against the proposed punishment. The charges levelled were not proper. The inquiry was not conducted fairly and properly in accordance with the principle of natural justice. The findings given by the E.O. were not based on legal evidence. In civil suit no. 150/80 filed by the complainant it was pleaded by the bank in the written statement that the bank was not responsible to pay any amount which was not deposited by the complainant or his cashier. Actually, the cashier of the complainant committed fraud and misappropriated his money. The punishment awarded to him is harsh and disproportionate when looked in the back grounds of the facts and circumstances of the case. Lastly, it has been alleged by the workman that the submissions made before the inquiry officer appellate authority and the Chairman-cum-Managing Director were not properly considered.

4. The management pleads that Shri M. S. Sondhi was validly appointed as E.O. and he conducted the inquiry fairly and properly in accordance with the principles of natural justice. During the inquiry and even at the time of personal hearing against the proposed punishment the workman was represented by Shri G. K. Pandey, the findings by the E.O. are based on evidence. The appellate authority was also validly appointed and both the E.O. and Appellate authority has acted within the forerunner of their jurisdiction. The workman had an opportunity of looking at the appointment order of Shri M. S. Sondhi the E.O. vide Bank's letter dt. 17-8-81, on the first date of hearing i.e. 15-10-81. As regards punishment the management pleads that it is neither harsh nor disproportionate. At the inquiry original counter foils of the deposit receipt could not be produced as the same were handed over to the police in connection

with the criminal case. The management deny that the admission of charges at the time of personal hearing before the E.O. was made by the workman under any pressure or on the assurance that a lenient view would be taken against him in the matter of punishment. With regard to the admission in the written statement referred to by the workman, the management pleads that the suit was filed by the customer against the management only and any such admission made by the management in the written statement is of no help to the workman.

5. The workman has filed rejoinder but in it no new facts have been alleged by him.

6. In support of this case, the workman has filed his own affidavit and a number of documents and on the other hand in support of their case, the management have filed the affidavit of Shri S. N. Mehra, Personnel Officer of the bank and the record of the disciplinary proceedings, formal proof of which was waived by Shri V. N. Sekhari the authorised representative for the workman.

7. In this case 21-4-89, was the date fixed for hearing of the arguments but despite the fact that the tribunal waited for the purpose till 2.20 p.m. neither side turned up. The case was, therefore, reserved for award.

8. I shall be considering some of the main points raised by the workman in his pleadings one by one.

9. I have seen the charge sheet. It cannot be said as vague or ambiguous on any point. It is very specific. It in a very clear terms refers to acts of misconduct alleged to have been committed by the workman.

10. The second point raised is that copies of documents were not supplied to the workman. I have gone through the Enquiry proceedings and find that copies of all the documents as and when produced through witness of the bank were furnished to the defence representative. It may be said that the original counter foils of the deposit receipts relating to deposit made on 9-8-77 and 10-8-77 were not produced before the E.O. by the management representative and as such the enquiry proceedings are vitiated. I do not agree with it. The management representative produced photo copies of these counter foils at the inquiry. From the inquiry proceedings it appears that the inquiry proceedings were conducted in a fair and proper manner in accordance with the principles of natural justice and the workman was given full opportunity to adduce evidence in defence.

11. It is also not true that the findings given by the E.O. are not based on legal findings. Rather I find that the E.O. has dealt with evidence and circumstances of the case in total and have given cogent reasons in arriving at his finding. Findings cannot be called as perverse by any stretch of imagination. It may be said that the E.O. has relied upon the report of the hand writing expert without the hand writing expert having been examined by the management. The reference about it appears in para 42, 43 and 44 of the inquiry report. The legal position that in the absence of the examination of hand writing expert at the inquiry his evidence cannot be relied upon cannot be disputed. But what I find is that the E.O. has even independently of the report of the hand writing expert arrived at the same conclusion and in my view also even without considering the report of the hand writing expert an ordinary prudent man would arrive at the same conclusion on which the findings are based. In the inquiry proceeding filed by the management I find a letter dt. 17-8-81 by means of which Supdt. of the bank appointed Shri M. S. Sondhi Supdt. Regional Manager Office, New Delhi as Enquiry Officer. It is not a letter of appointment of E.O. rather it is an intimation to Shri Sondhi Supdt. R.M. Office, New Delhi, to conduct the inquiry into the charges against the workman. There is nothing from the side of the workman to show that Supdt. who delivered the inquiry to Shri M. S. Sondhi and who signed the chargesheet was not competent to issue the chargesheet or not.

12. There is nothing from the side of the workman to show that Shri M. S. Sondhi was not competent to hold inquiry and award punishment. Therefore, in this plea also I find no force.

13. Ext. W-5 is the copy of written statement filed by the bank in O.S. No. 150/80 in the court of Civil Judge, Allahabad. In para 14 of the written statement it has been pleaded that the bank is not responsible to pay any amount which was not deposited by Shri R. A. Singh or his cashier. Actually the cashier of Shri Singh committed fraud and misappropriated his money. This admission does not in any way affects merit of the management case in the domestic inquiry. It is a well settled fact that when such a dispute arises the master tries to evade his liability and the liability of his servant so that master may not be held liable vicariously.

14. Lastly, the case of the workman is that the punishment awarded is harsh and disproportionate. Looking to the facts established in the inquiry it cannot be said that the case was not of serious imputation. An employee who misappropriates the money of the customers of the bank or attempts to misappropriate customer's money should not be allowed to remain in the service. This is what I feel. Moreover, in this case the workman made the following admission before the E.O. in the presence of his authorised representative at the time of personal hearing against the proposed punishment :—

VSM—At this stage in the presence of my authorised representative, I admit the charges levelled against me vide chargesheet no. DP-IR-8978/81 dt. 10-8-81 and DP-IR-8600/80 dt. 11-9-80. However, I do not admit the charge of Rs. 540 for which you have also not held me guilty vide your findings page 25 para 47. Since the matter regarding two entries amounting to Rs. 4182.63 paise and 4946.66 is pending before the court of law at Allahabad and Shri R. A. Singh has filed it in case of a future date of the court fixes the liability upon the bank instead of the bank paying such amounts I under take to make good such amount to the bank. I regret for such incidents which happened at weak moments due to bad influence which carried me away and made me do such things which I had earlier never even of doing it.

VSM—I pray the E.O. now that I have admitted the misconduct and also brought the the punishment proposed be reconsidered sympathetically and on compassionate grounds. I am making this humble submission at the personal hearing voluntarily of my own accord without any pressure of coercion from any one. No one has given me any assurances to admit the charges.

Now the workman has tried to wriggle out of his said admission by saying that it was obtained by the disciplinary authority by exercise of undue influence and on the assurance that the punishment of dismissal from service would not be awarded to him. The disciplinary authority confirmed the punishment of dismissal from his service by means of his order dt. 13-1-82. It was only for the first time that while preferring his appeal to the Appellate authority he challenged the said admission. With the inquiry proceedings the management have filed the copy of appeal also. It is dt. 5-4-82. Had the admission been obtained by exercise of undue pressure and on the assurance stated above, he would have surely objected to it by means of a complaint addressed either to the Disciplinary authority or to the Appellate Authority soon after the confirmation of the proposed punishment. Therefore, it is nothing but after thought.

15. Hence, it is held that the action of the management of Union Bank of India in terminating the services of Shri V. S. Mishra workman w.e.f. 13-1-82 is legal and justified. He is entitled to no relief.

16. Reference is answered accordingly.

ARJAN DEV, Presiding Officer
[No. L-12012/89/85-D.I(A)]
N. K. VERMA, Desk Officer

नई दिल्ली, 18 अगस्त, 1989

का. आ. 1992—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसूची में केन्द्रीय सरकार न्यूक्लियर फ्यूल कॉम्प्लेक्स, हैदराबाद के प्रबंधन से सम्बद्ध नियोक्तों और उनके कार्यों के बीच अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण हैदराबाद के पंचपर को प्रकाशित करना है, जो केन्द्रीय सरकार को 1-8-1989 को प्राप्त हुआ था।

New Delhi, the 18th August, 1989

S.O. 1992.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Nuclear Fuel Complex, Hyderabad and their workmen, which was received by the Central Government on the 1-8-89.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

Sri C. Rami Reddy, B. Sc., B.L.
Industrial Tribunal.

Dated : 20th July, 1989.

Industrial Dispute No. 112 of 1988.

BETWEEN :

The Workmen of N.F.C.,
Hyderabad.

AND

The Management of N.F.C.,
Hyderabad.

APPEARANCES :—

None—for the Workmen

Sri M. Pandu Ranga Rao, Central Government Standing Counsel for Industries and Labour cases for the Management.

AWARD

The Government of India, Ministry of Labour by its Order No. L-42011/29/87-D.II(B) dated 22nd December, 1988 referred the following dispute under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 between the Employers in relation to the Management of Nuclear Fuel Complex, Hyderabad and their workmen to this Tribunal for adjudication :

“Whether the demand of the NFC Canteen Employees' Union for regularisation of the services of 18 casual workmen, whose names are listed in the Annexure is justified ?

If yes, to what relief the said workmen are entitled to ?

This reference has been registered as Industrial Dispute No. 112 of 1988 and notices were issued to both the parties.

2. Sri M. Pandu Ranga Rao filed a memo of appearance for the Management. A petition is filed by the Petitioner on 8-2-1989 to the effect that the matter has been settled out of court. The Management also endorsed on the petition stating that the matter has been settled out of Court. In view of the said Memo, an Award is passed accordingly.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 20th day of July, 1989.

C. RAMI REDDY, Presiding Officer
[No. L-42011|29|87-D.II(B)]

Appendix of Evidence.

NIL

का. अ. 1993—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इन्टीग्रल कोच फैक्ट्री, मद्रास के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-8-89 को प्राप्त हुआ था।

S.O. 1993.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Integral Coach Factory, Madras and their workmen, which was received by the Central Government on the 2-8-89.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL,
TAMILNADU MADRAS-104.

Tuesday, the 20th day of June, 1989

INDUSTRIAL DISPUTE No. 53|88

(In the matter of dispute under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the Management of Integral Coach Factory, Indian Railways, Madras)

BETWEEN :

the workmen represented by
The Secretary,
Trained Technical Staff Union,
Integral Coach Factory,
No. 141, Konnur High Road,
Ayanavaram; Madras-600023.

AND

The General Manager,
Integral Coach Factory,
Indian Railways, Madras-600038.

REFERENCE : Order No. L-41011|13|86-D.II(B), dated 1-8-1988 of the Ministry of Labour, Government of India, New Delhi,

This dispute coming on for final hearing on Tuesday, the 16th day of March, 1989 upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiru T. P. Elisha Thiruppal, Authorised Representative for the workmen and of Thiru G. Rangaswamy, Authorised Representative for the Management and this dispute having stood over till the day for consideration this Tribunal made the following

AWARD

This dispute between the workmen and the Management of Integral Coach Factory, Madras arises out of reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its Order No. L-41011|13|86-D.II(B), dated 1-8-88 of the Ministry of Labour for adjudication of the following issue :

“Whether the action of the management of Integral Coach Factory, Indian Railways, Madras in treating the intervening period between the date of compulsory retirement and the date of superannuation given against each of the following three workmen is justified ?

If not to what relief the workmen are entitled ?

Sl. No.	Name of the workmen	Compulsory retirement	Date of Superannuation
1.	S/sh.S. Ramu	3.9.1975	31.1.1977
2.	M.Khader Hussain	3.9.1975	31.10.1977
3.	G.C. Raibeira	3.9.1975	31.3.1977

2. claim petition averments are that Late Shri M. Khader Hussain, Ex. Fitter, Shri S. Ramu, Ex. Maistry, and Shri C. G. Robeira, Ex. Chargemen were employees of the Integral Coach Factory. They were compulsorily retired from services with effect from 3-9-75, 5-9-75 and 3-9-75 respectively by the Respondent on 25-3-78 after their superannuation. In that order the intervening period between the compulsory retirement and date of superannuation is treated as 'Leave Due'. The period so treated as 'Leave Due' instead of treating the same period as 'On duty' is illegal since it is the administration that had retired them compulsorily and the very same Administration had reinstated them into

service. In terms of the Railway Board's Order dated 2-2-77, the intervening period between the compulsory retirement and reinstatement should be treated as 'on duty'. In respect of representation made for treating the period as 'On duty', there was no response. The authority before treating their period as 'leave due' should have served a notice on them. Hence the period treated as 'Leave due' is invalid and illegal and against the principles of natural justice. The period treated as 'leave due' is arbitrary. The reinstatement order is illegal. Hence the claim petition.

3. The Respondent in its counter states that the Petition is not maintainable either in law or on facts. The Petitioner-Union has no locus-standi and the only person who are competent to file the Industrial Dispute are the persons who are affected by the order. The persons referred in the reference were all retired on account of public interest. Subsequently they were all retired on account of public interest. Subsequently, they were reinstated in service by an order dated 25-3-78. The workers since attained the age of superannuation even on 1977, they could not be reinstated to actual duty. The intervening period between the date of compulsory retirement and the date of superannuation were treated as 'leave due' under Rule 2044-1 of Indian Railways Establishment Code. The authority has exercised his powers under the Rule and passed the orders. Hence it is not open to the employees to challenge these orders by way of reference. The order has been passed by a competent authority based on instructions issued by the Railway Board. There is no necessity to pass a speaking order. It is not correct to state that notice has to be served, if the authority has to treat the period as 'leave due'. The order of reinstatement is not illegal and there is no question of paying any amount to the employees. Hence the application is liable to be dismissed.

4. The point for determination is (i) whether the action of the Management-Respondent in treating the intervening period between the duty of compulsory retirement and date of superannuation given against three workmen is justified?

(ii) If not what relief?

5. W-1 to W-12 were marked on the side of the workmen. No document was filed by the Respondent-Management. No oral evidence was adduced on either side.

6. Ex. W-1 to W-3 are xerox copies of order dated 5-9-75, compulsorily retiring three workmen referred to here on the Forenoon of 3-9-75 in the public interest. Subsequently by virtue of order dated 25-3-78 those three workmen were reinstated in service from 3-9-1975 and finally retired from service on the dates noted against each of the worker attaining the ages of superannuation. While passing such an order, the Respondent treated the intervening period between the date of compulsory retirement and date of superannuation as 'leave due'. These three orders now being attacked by the Petitioner's Authorised Representative on the ground that as per W-7,

Board's letter, the intervening period should be treated as 'duty' and the remaining period as dies non.' According to him, the Respondent by not complying with this order of the Board, has committed grave error and thereby resulted in injustice to the workers. It is pointed out by the learned Authorised Representative that such an order passed under W. 1 to W. 3 has resulted the loss of pension, gratuity, E. L. etc. As against this contention the learned Authorised Representative of the Respondent contends that it is the privilege of the competent authority who passes an order of reinstatement to regulate the intervening period as duty or leave taken into consideration of merits of each cases. He would also point out that under Rule 2044-4 Indian Railways Establishment Code, the competent authority has powers to pass an order of reinstatement and to pass an order regularising the period in such a manner and therefore the authority had exercised his right, which is not open to challenge. It is further contended by the Authorised Representative for the Respondent that the order has been passed by the competent authority on the instructions issued by the Railway Board contained in the letter dated 2-2-1979. In this connection Rule 2046-K of the Indian Railways Establishment Code empowers the appointing authority to have an absolute right to retire a railway servant in Class III service or post who is not governed by any pension rules after he has completed 30 years of service by giving him notice of not less than three months pay and allowances in lieu of such notice. There cannot be any quarrel over the rule since the workers have been retired only on the basis of this rule. But the learned Authorised Representative would straightaway rely on Ex. W-7 copy of Board's letter dated 25-10-1982 clarifying the decision of treating the pay and allowances granted in lieu of notice of reinstatement. The letter reads; "that when a Railway Servant prematurely retired under Rule 2046 R. II by giving him pay and allowances in lieu of the notice period of three months is reinstated on further review on the condition of the intervening period will be treated as on dies non, the first three months of the intervening period should be treated as on duty and the remaining period as dies non and hence the question of recovery of pay and allowances already paid should not arise." As against this circular, the Respondent-Management is not in a position to contradict the same. Admittedly in this case while at the time of reinstatement the intervening period was treated as leave due. But in this case, W-7, Board's letter is dated 25-10-1982 and the order passed against the three workmen treating the period as leave due on 25-3-1978. Therefore the learned Authorised Representative for the Petitioner cannot contend that the order under W-7 gives retrospective effect and therefore it should be given effect to these three workers referred to herein. The order treating the intervening period as leave due as far as from 25-3-1978 as can be seen from W-4. The order has taken effect from that date. It is not shown by the Authorised Representative for the Petitioner that W-7 order is already in existence and therefore it would apply to the workers herein also. As rightly contended by the learned Authorised Representative for the Petitioner that as per Rule 2044 of the Indian Railways Establishments Code, the competent authority has powers to pass an order of reinstatement.

ment as to specify the order whether or not the said period shall be treated as period spent on duty. In this case the competent authority has thought fit to pass an order treating the period as leave due while ordering reinstatement. Hence the order cannot be challenged by the Petitioner—Union. It is the case of the Petitioner that the Competent authority has no powers to pass such an order. The fact that the order is not a speaking order and could not vitiate the order for the simple reason, it is only a discretionary order enjoining on the competent authority while passing order of reinstatement. The competent authority should take into consideration of the merits of the case and pass such an order. Therefore it is not open to the petitioner Union to attack the same on the basis of subsequent order passed by the Board under W-7. For these reasons, this point is found against the Petitioner-Union.

7. In the result the Petitioner-Union is not entitled to any relief and the action of the Management under reference is justified. The claim is rejected. An award is passed accordingly. No costs.

Dated, this the 20th day of June, 1989.

K. NATARAJAN, Presiding Officer
[No. L-41011/13/86-D. II (B)]

WITNESSES EXAMINED

For Both sides : None.

DOCUMENTS MARKED

For Workmen :

- Ex. W-1/5-9-75 — Office Order granting 3 months pay & allowance to Thiru M. Khader Hussain (Xerox copy).
- W-2/5-9-1975 — Office Order granting 3 months pay & allowances to Thiru S. Ramu (Xerox copy).
- W-3/5-9-1975 — Office Order granting 3 months pay & allowances to Thiru G. C. Rebeira (Xerox copy).
- W-4/25-3-78 — Office order issued to Tvl. S. Ramu, M. Khader Hussain and G. C. Rebeira treating the period intervening between the date of compulsory retirement and the date of superannuation as 'Leave Due' (Xerox copy).
- W-5/2-2-1977 — Railway Board's Order regarding representation for premature retirement (copy).
- W-6/13-3-1978 — Order regarding review of cases of Railway employees, who were compulsorily retired from service during internal emergency (copy).
- W-7/23-10-1982 — Railway Board's order for clarification regarding treatment of pay & allowances granted in lieu of notice period on reinstatement (Xerox copy).
- W-8/24-11-78 — Letter from Management to Thiru C. G. Rebeira (Xerox copy).
- W-9/5-8-1982 — Reply by Thiru C. G. Rebeira to Ex. W-8 (Xerox copy).

W-10/28-3-1978 — Letter from Thiru C. G. Rebeira to the Dy. Chief Electrical Engineer, ICF, Madras—38 (copy).

W-11/23-11-78 — Service Certificate issued to Thiru Mohemmed Khader Hussain (copy).

W-12/19-11-1975 — Service Certificate issued to Thiru S. Ramu (Xerox copy).

For Management : NIL.

Sd./-
(Illegible) Industrial Tribunal

नई दिल्ली, 17 अगस्त, 1989

का. प्रा. 1994—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर रेलवे लव्जनरु के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मियों के बीच माध्यम में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-8-89 को प्राप्त हुआ था।

New Delhi, the 17th August, 1989

S.O. 1994.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway, Lucknow and their workmen which was received by the Central Government on the 2-8-89.

ANNEXURE

BEFORE SHRI ARJAN DEV PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 31 of 1988

In the matter of dispute between :

The Divisional Secretary,
Uttar Railway Karamchari Union,
C/o Manorama Awasthi 39-II J,
Multistoreyed Railway Colony,
Charbagh Lucknow.

And

The Divisional Railway Manager,
Northern Railway,
Hazaratganj,
Lucknow.

AWARD

The Central Government, Ministry of Labour, vide its notification no. L-41012/25/87-D.II(B), dated 16th March, 1988 has referred the following dispute for adjudication to this Tribunal :

Whether the action of the Divisional Railway Manager Northern Railway Lucknow in dismissing Sh. Sharafraj Ali Khan with effect from 27-8-1964 from service is justified? If not to what relief the workman concerned is entitled to and from what date?

2. The industrial dispute on behalf of the workman has been raised by Uttar Railway Karamchhari Union (hereinafter referred to as Union). The case of the Union is that the workman on being selected by Railway Service Commission was posted as clerk under the then Divisional Superintendent, N.R. Jodhpur on 27-3-53. In 1955 he was transferred to Lucknow Division where while working as a clerk in the Works Section of Engineering Department he was confirmed on 22-6-56. The workman fell ill on 19-7-63 and submitted a Private Medical Certificate upto 30-9-63, in the first instance. As due to complication in his sickness he further submitted application for sanction of leave without pay on medical grounds. He submitted sick reports on 30-9-63, 4-1-64, 28-1-64 and 2-2-64. On 15-7-64, when he submitted an application with a certificate of fitness from a medical practitioner in order to join duty he learnt that he had been removed from service w.e.f. 27-3-64. During his absence the Railway Administration started an inquiry some time in the beginning of January, 1964. Through the aforesaid letters the workman prayed that the inquiry be postponed till he was recovered. The workman filed an appeal before the C.P.O. Northern Railway, New Delhi on 29-8-64 but the same was rejected by means of a non speaking order. Therefore, he filed a review petition before the General Manager but the same too was rejected. The workman continued submitting several representations to the next higher authorities upto 1974, vide his letter dt. 18-5-74, the D.S. Northern Railway Lucknow inquired from the workman the date of his birth for the purposes of considering him for employment. The D.P.O. Lucknow recommended his case to C.P.O. New Delhi for considering his case of employment. Therefore the railway management did not inform him about the result. In view of it the workman remained representing his petitions to higher authorities upto 20-12-64 and when nothing happened he raised the industrial dispute through the Union. The Union alleges that the workman had to suffer due to ignorance of law and Railway Rules by the Railway Authorities. The departmental inquiry would not have been started and completed ex parte when the workman had in fact shown his inability to take part in the inquiry proceeding on medical grounds. Since virtually no opportunity of self defence was provided to the workman, the whole of the disciplinary action taken by the management was ultra vires, arbitrary and malicious. The Union has, therefore, prayed that the workman be reinstated with full back wages and all consequential benefits such as seniority, promotions etc.

3. The management plead that the workman was appointed as clerk on 27-7-53 and not on 27-3-53 as has been alleged in the claim statement. He was transferred to Lucknow Division on 20-4-55 and was confirmed as per entries in the service book on 22-6-56. The case being about 24 years old, despite best efforts only the service book of the workman could be traced out. From the service book it appears that the workman was on unauthorised absent and left the head quarter without permission w.e.f. 29-9-63 and because of it he was removed from service w.e.f. 27-3-64 after making proper

inquiries. In the absence of record, at this belated stage it cannot be confirmed whether or not any Private Medical Certificate was received. The then Divisional Superintendent, according to the management, had no powers to change the orders of the C.P.O. The management despite the fact alleged by the Union that in the departmental proceedings decision was taken ex parte. The management also plead that the workman applied for re-employment without remuneration through Dy. Minister of Railways on 23-7-74, during the Railway Strike in the year 1974 and it was then that the date of birth was inquired from the workman. But till time the employment of the workman could be considered the railway strike was called out. The workman has reopened the case after about 24 years having full knowledge that the entire record of his service would not be available with the administration. The claim put up by Union on behalf of the workman is therefore, barred by time. The Union in question has not no legal right to raise the industrial dispute. Lastly, it is pleaded that the Tribunal has no jurisdiction to try this case.

4. In the rejoinder the Union pleads that the master regarding disciplinary action taken by the management against the workman was kept regularly under agitation by the workman through his appeals, revision and petitions to CPO and General Manager and representations to the Hon'ble Railway Minister, Hon'ble Prime Minister and His Excellency the President of India upto 20-12-84. The I.D. was raised in the month of February, 1986 and it continued upto 9-1-87, under the conciliation proceedings. Therefore, the plea of non availability of complete records of the workman is not available to the management.

5. In support of his case, the workman has filed his own affidavit and a number of documents and in support of their case the management has filed the affidavit of Sh. Manoj Kumar Senior Clerk of the Office of the Divisional Superintendent and a few documents.

6. During the course of arguments Sh. Chauhan the authorised representative for the management has raised a few legal pleas. He has urged that the Union/workman is guilty of laches; secondly the workman himself had acquiesced in the order of dismissal from service by seeking reemployment. The being of legal importance they are taken up by one.

1. Laches :

7. It has been submitted by Sh. Chauhan that there is no doubt that the law of Limitation does not apply to claim under the I. D. Act but some of the claims under the said Act may stand defeated because of laches on the part of workman/Union. He has placed reliance on the following observation of Hon'ble Mr. Justice SC Mathur in Writ Petition No. 1333 of 1989, Northern Railway Administration through D. R. M. Northern Railway, Lucknow Vs. Sh. Kaushal Kishore and another decided on 25-8-87 which reads as under :

It is true that in the absence of a statutory provision prescribing period of limitation for approaching the Tribunal a claim cannot be rejected on the ground that it is barred by time. All the same it is necessary that there should be no laches and the claim should not be stale. In Ram Krishna Ramnath (supra) a Division Bench of the Bombay High Court observed in para 23 of the report as follows :

....Industrial disputes are required to be settled as early as possible. Therefore, undue delay or laches would not be countenanced by the Labour Court. Whether there has been an unreasonable delay is a question to be decided by the Labour Court in its discretion. All that we need may now is that the Labour Court functioning under section 33C(2), though not governed by the laws of limitation which might bar a civil court from giving relief in respect of a lawful right, will be entitled not to encourage of allow over stale claims unless there is a satisfactory explanation for the delay.

AND

I have not observed that the claim was liable to be dismissed on the basis it was barred by time. I have only observed that a claim may be rejected on the ground of laches. In case the discipline of approaching the Tribunal within a reasonable time is not enforced the Administration may be put to great hardship. The workman may not raise any dispute during the period the records remain available and may raise after the records have been weeded out rendering it almost impossible for the Administration to meet the plea of the workman. For these although Limitation Act as such will not apply but the principle of laches may still be enforced. Whether in a particular case of workman has been guilty of laches or not will have to be decided on the facts of that case. Similarly a Tribunal may not be bound by rigid rules of procedure, including the law of evidence, but the evidence brought on record must be such as inspires confidence.

In support of his contention he has referred to documents filed by the Union with the rejoinder. These documents have been marked by him with red ball pen above. Sh. Chauhan has referred to documents nos. 7-8-9, 10, 11, 12 and 13. These documents go to show that by means of letter dt. 11-8-64, from the Office of the Divisional Superintendent the workman was informed that he had been dismissed from service vide notice No. 170-E/1/A dated 26-3-64.

Copy of the said notice was annexed to the said letter and it shows that the penalty of removal from service was awarded to the workman for his unauthorised absence from duty from 29-9-63 and for leaving station without permission from the competent authority. Against the order of the Disciplinary authority

he filed appeal which was dismissed by C.P.O. New Delhi and his decision was communicated to the workman by the A.P.O. by means of his letter dt. 24-5-65. The workman then filed a revision on 19-7-65, but the same was also dismissed on 23-4-66 as will be evident from the copy of notice dt. 26-9-66, under section 80 C.P.C. given by the workman to the General Manager Northern Railway New Delhi, through Sh. J. B. Khan Advocate. Thus the cause of action accrued to the workman in April, 1966. Further in order to enforce his right the workman also sent a notice under section 80 G.P.C. on 26-9-66 through an advocate. The workman therefore, should not have waited for 20-21 years for bringing against the management. He should have filed the suit declaring the order of his dismissal from service in the Civil Court or should have pursued his remedy under the provisions of I.D. Act, 1947. Having not done so he waited till the record was weeded out. There is nothing on record as to what prevented him from bringing an action in the court of law against the management. Mere sending representations to the higher authorities mean nothing. I may state here that in his cross examination the workman has deposed that he raised the dispute before the A.L.C. Central in 1985 or in the year 1986. No document has been filed to substantiate this fact. However, during the course of arguments this question arose, Sh. B. D. Tiwari, the authorised representative for the Union submitted that in all probability the industrial dispute was raised some time in 1987. In connection with the representation made by the workman Sh. Chauhan has to documents nos. 14, 15, 16 and 17 filed by the Union with the rejoinder. He has also referred to documents nos. 21, 22, 23 and 24 in this regard. Document nos. 14, 16 and 17 referred to copy of undated mercy appeal sent by the workman to the Hon'ble Railway Minister with copies to the Hon'ble Prime Minister and His Excellency the President of India. Copy of another representation dt. 27-9-68 from the workman to the Hon'ble Rly. Minister for reinstatement and copy of letter dt. 13-5-69 from P.A. to Dy. Law Minister informing the workman that the copy of letter dt. 9-5-69 from the Hon'ble Rly. Minister to Dy. Law Minister regarding his reinstatement in service was being sent to him for information.

7. Document nos 21, 22, and 24 are again representations sent by the workman to the Hon'ble Rly. Minister and Hon'ble Dy. Rly. Minister for Railways in 1976, on 12-5-77 and 10-7-80. Document No. 22 is the copy of letter dt. 17-3-77 from one Sh. N. A. Haleem to Sh. Madhudandwate the then Railway Minister.

8. Sh. Chauhan has referred to a few other documents to which I will refer under the second point as these documents relate to workman seeking reemployment in the railway service.

9. In reply Sh. B. D. Tewari, authorised representative for the workman has simply said that the workman had been pursuing his remedy constantly at the hands of executives without having resort to the court of law.

To me the reply given by Sh. Tewari does not appear to be satisfactory. The question is why the workman was feeling shy in coming to a court of

law in order to enforce his right. Did he consider his case baseless or he was marking to raise it at a time when every thing is forgotten on account of weeding out of record and then to spring of surprise on the railway administration. The observation of his Lordship that in case the discipline of approaching the tribunal within a reasonable time is not enforced the administration may be put to great hardship fits well in this case. His Lordships has also observed that the workman may not raise any dispute during the period the records remain available and may raise the same after the records have been weeded out rendering it almost impossible for the administration to meet the plea of the workman. His Lordships also observed that although Limitation Act as such will not apply all the same principle of laches may still to be enforced. I therefore, hold that the workman is guilty of laches and he has not come with clean hands.

Acquiescence

11. Sh. Chauhan has contended that from the facts established in the present case, the workman/Union is estopped from raising the present industrial dispute as the workman has acquiesced in the order of dismissal from the service. Before ALC the workman have been pleading for reappointment. In this connection he has referred to documents nos. 10, 19, 20, 25 and 27 of the workman, filed with the rejoinder by the Union and also to annexure II to the WS.

12. Annexure II to the written statement bears necessary certificate under section 139 of the Indian Railways Act. It is the copy of representation dt. 23-7-74 from the workman to the Hon'ble Dy. Minister for Railways. Through the said representation he made a request for his reemployment. Document No. 18 is the copy of letter dt. 18-5-74 from the office of D. S. to the workman calling upon him to furnish his date of birth for considering his case of reemployment. Document no. 19 is the copy of letter dt. 23-5-69 from the workman to he D. S. giving his date of birth as 15-1-33. Document no. 20 is the copy of D. O. letter dt. 5-12-74 from Sh. J. N. Guha D.P.O. to Sh. Dooraj APO(C) N.R. Delhi. It has also been written in connection with the workman's application for reemployment. Document No. 25 is the copy of representation from the workman to the General Manager requesting him for reemployment. It is dt. 1-11-82. Document no. 27 is the copy of representation dt. 20-12-84 by means of which he requested for his reemployment to the Dy. Minister for Railway.

13. These documents, according to Sh. Chauhan, thus go to show that the workman had acquiesced in the order of his dismissal from service passed by Disciplinary Authority and confirmed by the appellate and the Divisional Authority. Had he not acquiesced in the said order he would not have sought reemployment.

14. The facts are quite evident and Sh. B. D. Tiwari, has no answer to it. Accordingly on the second point I hold that the workman/Union is estopped from raising industrial dispute in respect of the order of dismissal passed by the Disciplinary Authority against the workman.

15. Now, I refer to the other submissions made by Sh. Tiwari during the course of his arguments in this case. I may state here that the management witness in his cross examination has deposed that only the service book of the workman is available. The file of the inquiry proceeding is not available at all. In his cross examination he has also deposed that in the service book of the workman the following entry appears—

"Removed from service because of unauthorised absence from duty from 29-9-63 and leaving station without permission from the competent authority".

This entry is the same as was communicated to the workman by the office of D.S. by means of letter dt. 11-8-64. Sh. Tiwari, has referred to a few rulings. There is no dispute about the law cited by him with regard to disciplinary proceedings and the punishment award but question is whether in the circumstances stated above can it be said that the disciplinary were not concluded in accordance with law and in accordance with the principles of natural justice. In the absence of record no opinion can be given on this point. But I may state here that in view of findings of first two legal issues and in view of non availability of record of disciplinary proceedings which must have been weeded out by the time and industrial dispute was raised it will be presumed that the inquiry was conducted fairly and properly and in accordance with the principles of natural justice. There is no denying the fact that the workman had been absent from duties from 29-9-63. According to him various applications for leave were submitted by him with medical certificates. What orders were passed on them, it is not possible to know because of the absence of record. The fact that he was ill is also not free from doubt. It is admitted to him that all along he remained at Lucknow except for a short period of one week when he had gone to Barabanki for medical treatment of a vaidya as will be evident from document no. 8 which is the copy of appeal dt. 25-6-84 addressed by the workman to the C.P.O. New Delhi. It appears from the evidence that he never got himself examined from the railway doctor. He has taken beyond the fact that the railway hospital was 5 miles away from his house. This is some thing which does not appeal to mind. If he could travel up to Barabanki he could have well gone to Railway Hospital for medical examination. Disease from which he was suffering was chronic dysentery. He admits that he never consulted any doctor of the medical college nor consulted any specialist having degree in M.B.B.S.

16. From the above discussion of law and facts I answer the reference against the workman/Union.

ARJAN DEV, Presiding Officer
[No. L-41012/25/87-D.II(B)]

का. आ. 1995—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केन्द्रीय उत्तर मजदूरी उद्योग संस्थान, लखनऊ के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-8-89 को प्राप्त हुआ था।

S.O. 1995.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Kendriya Uttar Maidani Udyan Sansthan, Lucknow and their workmen, which was received by the Central Govt. of the 2-8-89.

ANNEXURE

BEFORE SH. ARJAN DEV PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, KANPUR.

Industrial Dispute No. 23 of 1987

In the matter of dispute between :

Sh. M. Shakeel Secretary,
Krishi Karamchhari Sabha,
1 Abdul Aziz Road
Lucknow

And

The Director, Kendriya Uttar Maidani Udyan,
Sansthan 53-B Mahanagar Sector A.
Lucknow,

AWARD

1. The Central Government, Ministry of Labour, vide its notification no. L-42012/57/85-D.II(B) dated 20-1-87, has referred the following dispute to this tribunal for adjudication :

Whether the action of the management of Kendriya Uttar Maidani Udyan Sansthan Lucknow in not regularising the services of Sh. Phool Chand and terminating his services from 19-6-85 is legal and justified? If not, to what relief the concerned workman is entitled and from what date?

2. The workman's case is that he had been working with Kendriya Uttar Maidani Udyan Sansthan Lucknow at Rahman Khera w.e.f. 1977 as an unskilled labour. In spite of the fact that he had been working on a permanent nature of job, on account of unfair labour practice, he was treated as a casual labour. The services of the workman were terminated by the management w.e.f. 19-6-85 without any notice chargesheet or any inquiry. He alleges that before the termination of his services he had completed 240 days of continuous working in a calendar year. He has also pleaded that the management while terminating his services had allowed juniors to continue in service. He has therefore, prayed that the order of termination of his services be held as illegal and void and he be allowed to join duties with full back wages and with continuity of his past services.

3. The case is contested by the management. The management plead that the Indian Council for Agricultural Research (hereinafter referred to as ICAR) is a society registered under the Societies Registration Act, 1860. The main objects of the society are to

undertake aid, promote and coordinate research and education in the field of Agriculture including Animal Husbandry in the country. In order to fulfil its objects the society has established Research Institutes/Laboratories in different parts of the country and one such Institute known by the name of Central Institute of Horticulture for northern plains (hereinafter referred to as C&H) is financed and controlled by the aforesaid society through a Board of Directors/Governing Body. The ICAR has framed rules for recruitment of services. So far as the recruitment is concerned, the governing body of ICAR has framed recruitment Rules according to which the Governing body alone is entitled to make these rules. Although powers in respect of 123 items have been delegated to the Director no power for granting a permanent post or to make appointments have been conferred on the Directors. Regular employees are employed against post created by competent authority under the Rules. Besides the regular employees CIH also employs casual labour on daily wages, who works on farms. They are engaged from time to time according to needs.

4. While admitting the fact that the workman had been engaged as casual labour at Rahman Khera in 1977, management plead that the workman had left the job of his own free will w.e.f. 1-3-88. He had worked on casual basis upto 28-2-85. According to the management the workman had not been performing regular nature of job. The workman had not even completed 240 days of working in any calendar year during the last 5 years. Lastly, the management plead that the Central Government being not the appropriate government, the Tribunal has got no jurisdiction to adjudicate upon the present dispute.

5. In his rejoinder the workman alleges that he had completed 240 days of continuous working in each calendar year — 1978, 1979, 1980, 1981, 1982, 1983 and 1984. According to him the Tribunal has full jurisdiction to adjudicate upon the dispute referred to it by the Central Government.

6. In support of its case the workman has filed his own affidavit and a few documents and on the other hand the management has filed the affidavit of Sh. Jai Pal Singh Garden Suptd and a few documents.

7. From the pleadings of the parties one thing is clear that the workman was engaged as casual labour by CIH in 1977. The dispute between the parties is mainly on two points. The first is whereas according to the workman his services had been terminated w.e.f. 19-6-85, according to the management the workman had abandoned the job and had not come on duty w.e.f. 1-3-85. The second is whereas according to the workman he had completed 240 days of continuous working in each year right from 1978 to 1984, according to the management in none of these years he had done 240 days of work.

8. In paras 2 and 4, of his affidavit dt. 28-12-87, the workman has deposed that he had fallen ill on 1-2-85 and due to his illness as he could not report for duty. After recovery of his illness when he

went to join his duty, the management did not allow him to work w.e.f. 19-6-85.

9. In support of the above said facts the workman has filed a few documents with his list of documents dt. 26-4-87. Document no. 2 seems to be the photostat copy of the prescription dt. 1-2-85 by means of Dr. Mohd. Wali HMB, RMP prescribed certain medicines for the workman. Document no. 3 and document no. 4 are photocopies of 2 certificates of medical fitness dt. 19-6-85 and 20-6-85 issued by the said doctor. In both the certificates it is stated that the workman had remained under his medical treatment from 1-2-85 to 19-6-85. It is further stated in both the certificates that the workman was now quite fit for doing duty.

10. In para 2 of his statement in cross examination, the workman has deposed that he remains ill from 1-2-85 to 20-6-85. After 3 days of the falling ill he has sent his leave application through Sh. Maikoo Lal which was recorded. According to him during the said period he had sent 4 leave applications dasati to the management. With these applications he had annexed medical certificates. Shri Maikoo Lal had told him that he had deposited his leave applications with the management.

11. This case of the workman that he had been ill from 1-2-85 cannot be believed at all. Had he been ill he would have surely referred to his illness either in his claim statement or in his rejoinder. The facts stated in the claim statement and in the rejoinder go to show as if he had done duty upto 18-6-85 and then all of sudden w.e.f. 19-6-85 he was denied duty. Not only this he has not examined the doctor nor has produced Sh. Maikoo Lal who is said to have carried his leave applications with medical certificates.

12. The management witness with his affidavit has filed photostat copies of muster rolls from Feb. 1985 to June 1985. From the evidence given by the management witness and from these muster rolls it appears that in the month of Feb. 1985 the workman had done duty on 11 days. His name continued to be mentioned in the muster rolls on March 1985 and April 1985 but thereafter his name was not mentioned in the muster roll which prepared in the ordinary course of official business as such entries in these muster rolls cannot be said as fictitious. It cannot be believed that without the workman having worked for 11 days in Feb. 1985 he would be marked present on 11 days in the said month.

13. Thus to me it appears that the case set up by the workman at the stage of evidence is after thought. He has tried to spring a surprise on the management. Had he been actually ill he would have surely made a mention of this fact in his claim statement or in his rejoinder. His absence for such a long time without any application to the management would lead to one and only one inference i.e. that he had abandoned the job. It could be that finding himself not satisfied with the wages which he was getting or with the casual nature of work, he stopped going to the CIH at Rehmankhara for doing duty. It could be that on account of work having finished for work having not been to his liking at the new place of

working he might have thought of coming to the old work.

14. The case of under section 25G seems to have been given up by the workman as will be evident from para 7 of his affidavit. In the said para he has simply deposed that no seniority list was prepared by the management at the time of termination of his services. Therefore, he has no case under section 25G I. D. Act.

15. There also does not appear to be much force in the workman's case that he had worked for 240 days in each calendar year right from 1978 to 1984. The fact has been denied by the management witness in his affidavit. No attempt was made by the workman to summon the record from the management in order to prove his contention on this point.

16. I, therefore, find no force in the case brought by the workman. His services stood terminated on account of his having abandoned the job himself. The question of regularisation of his services when he was not in the service of CIM at the time of the reference order does not arise.

17. Reference is answered accordingly.

ARJAN DEV, Presiding Officer

[No. L-42012/57/85-D.II(B)(PE)]

का. भा. 1996,—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रसिद्धित इञ्जिनियर माइक्रोवेव प्रोजेक्ट, वाराणसी के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदृष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधीकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-8-89 को प्राप्त हुआ था।

S.O. 1996.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur shown in the Annexure, in the industrial dispute between the employers in relation to the management of Assistant Engineer Microwave Project, Varanasi and their workmen which was received by the Central Government on the 2-8-89.

ANNEXURE

BEFORE SH. ARJUN DEV PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, PANDU NAGAR, KANPUR.

Industrial Dispute No. 141 of 1987

In the matter of dispute :

BETWEEN

The Assistant Engineer Microwave Project
Varanasi.

AND

Sh. Swami Nath Chauhan C/o N. C. Pandey
C-323 Gurutej Bahadur Marg, Karli
Allahabad.

AWARD

1. The Central Government Industrial Tribunal cum Labour Court, Kanpur, has been referred the

following industrial dispute for its adjudication by the Ministry of Labour, vide its notification No. L-40012/42/86-D. II(B) dated 21st September, 1987.

Whether the action of Assistant Engineer, Microwave Project Varanasi by directing the workman concerned to report for duty to SDO Mirzapur vide his letter dt. 12-8-85 and workman not being taken on duty by the later amounts to termination of services of Sh. Swami Nath Chauhan w.c.f. 1-8-85 is just and legal? If not, to what relief the workman concerned entitled?

2. The admitted facts are that Sh. Swami Nath Chauhan, workman concerned was appointed as daily rated labour on 1-3-83 at Microwave Station Churk Mirzapur. After some time he was transferred to Microwave Repeater Station Khera. By means of his letter dt. 12-8-85, the Asstt. Engineer Microwave Project Varanasi directed the workman to report to S.D.O. Telegraphs Mirzapur for duty as the Microwave Repeater Station Khera, had been handed over to the said S.D.O. for further maintenance. The workman alleges that on receipt of the said letter on 17-8-85, he made a report to SDO Telegraphs Mirzapur but the said S.D.O. refused to take him on duty on the pretence that although Microwave Repeater Station Khera had been handed over to him, he had not taken the employees of the said station in service. Having himself inlurch the workman contacted the Div. Engineer Telegraphs but in vain. Therefore, he contacted the Div. Engineer Microwave Project, Varanasi for giving him duty but instead of giving him duty, the said Asstt. Eng. informed him that he was unable to take him on duty as there was no vacancy with him. The workman therefore approached the Div. Engg. Telegraphs who gave him the assurance that as soon as any vacancy occurred he would take him on duty. The workman alleges that despite the fact that he had been in the continuous employment since 1-3-83 he was given no duty. Thus his services were terminated without payment of any retrenchment compensation to him and without any inquiry against him. The workman further alleges that some of the juniors as named in the list annexure 3 to the claim statement, are still in service of the management. Therefore, the order terminating his services is arbitrary, illegal and void. He has, therefore, prayed that he should be reinstated with continuity in service and full back wages and consequently all benefits related to it.

3. In the claim statement the workman has made Asstt. Engg. Microwave Project Varanasi, S.D.O. Telegraphs Mirzapur, Div. Engg. Telegraphs Maintenance Varanasi and Div. Engineer Telegraphs Microwave Project Lucknow as parties. In the reference order the management has been referred to as the Assistant Microwave Project Varanasi. It is the Assistant Engineer Microwave Varanasi as party in the written statement in the case.

4. The Assistant Engineer Microwave Project Varanasi pleads that he has no knowledge of the fact whether or not SDO Mirzapur had refused to take workman on duty. In the absence of records he cannot say whether the workman ever contacted the DET Telegraphs Microwave Maintenance Varanasi

and DET Microwave Project Lucknow. The Asstt. Engineer has denied the fact that the workman had continuously worked from 1-3-83. The workman was simply directed to report to SDO Mirzapur for duties. Therefore, the question of termination of workman's service does not arise. Consequently, there is no question of reinstatement of the workman. He is entitled to no relief.

5. In his rejoinder, the workman alleges that the Asstt. Engineer have failed to transfer his services from his control to the control of SDO Telegraphs Mirzapur, in accordance with the proper procedure for making over charge of Microwave Repeater Station Khera. The report with regard to making over of charge should have mentioned the name as he was in service at the said station at that time. It was only when he was not treated on duty at the said station by the S.D.O. Telegraphs Mirzapur that he brought the fact to the notice of Assistant Engineer Microwave Project Varanasi and called for his prompt intervention in the matter whereupon the said Assistant Engineer simply issued a letter dt 12-8-85 with instruction to him to report to SDO Telegraphs Mirzapur. No other new fact has been alleged by the workman in rejoinder.

6. In support of his case the workman has filed the affidavit of Sh. S.D. Srivastava his authorised representative. He has also relied upon a number of documents. The management filed the affidavit of Sh. Shiv Poojan Dubey, Asstt. Engineer Microwave Project Varanasi but he was not brought in the witness box for cross examination.

7. It is on the pleadings of the parties it becomes evident that the workman was engaged as daily rated casual labour on 1-3-83 at Microwave Station Churk Mirzapur from where he was subsequently transferred to Microwave Repeater's Station Khera which was transferred some time in July/August 1985 to SDO Telegraphs Mirzapur for maintenance.

8. Annexure 1, to the claim statement is the photostat copy of the letter dt. 12-8-85 from the Assistant Engineer Microwave Project Varanasi to the workman directing him to report to SDO Telegraphs Mirzapur for duty because of the handing over of Microwave Repeater Station Khera to the said SDO for maintenance. The copy of letter was enclosed to SDO Telegraphs Mirzapur for information and also to DET(M) Lucknow and DET Varanasi.

9. Annexure 2 to the claim petition is copy of certificate issued by Assistant Engineer to Microwave Project Varanasi certifying that the workman had worked for 873 days right from 1-3-83 to 31-7-85. From the details it appears that he was not absent on any of the days during the said period. Although the documents have been admitted by the authorised representative for the management and they have been marked as Ext. W-1 and Ext. W-2. It therefore, evident from these two documents that despite the fact that there was transfer of the Microwave Repeater Station Khera by the Assistant Engineer Microwave Station Varanasi to SDO Telegraphs Mirzapur the services of the workman continued at that very station. He was simply directed by the Assistant Engineer Microwave Project Varanasi that henceforth

he should report for duty to SDO Telegraphs Mirzapur. Further the workman had continuously worked for more than 240 days during the 12 months preceeding the date from which he was not given duty. There is no evidence in the present case from the side of the management that he was ever given any notice or notice pay and retrenchment compensation. Refusal to take him on duty amounts to retrenchment within the meaning of section 2(oo) I.D. Act.

10. In para 8 of his affidavit the workman's witness has deposed that the plea raised in the written statement by Asstt. Engineer Microwave Project Varanasi that he was not at all acquainted with the fact that SDO Telegraph Mirzapur did not take the workman on duty is incorrect. In fact the said Assistant Engineer in his letter dt. 1-4-86 copy annexure R-1 to the rejoinder addressed to the ALC(C) Allahabad admitted the said fact.

9. In para 3 of annexure R-1, to the rejoinder it has been stated by the Assistant Engineer that on receipt of application dt. 4-8-85, from the workman that the SDO Telegraphs had not taken him the DET Microwave Project Lucknow instructed him verbally to give instructions to the workman and others to report to SDO Telegraphs for duty and letter dt. 17-8-85 was issued to them with copies endorsed to SDO Telegraphs and DET Microwave Project Lucknow. Then in para 12 the workman's witness has corroborated the workman's case that several persons juniors to the workman were retained in service while the service of the workman were terminated without any inquiry show cause notice etc.

10. Thus from the evidence, I find that the services of the workman were virtually terminated w.e.f. 1-8-85 without complying provisions of section 25F and section 25G I.D. Act.

11. Hence, the action of the management in terminating the services of the workman w.e.f. 1-8-85 was unjust and illegal. Consequently he is entitled to the relief of reinstatement with continuity of service and with full back wages and consequential benefits.

12. Reference is answered accordingly.

ARJAN DEV, Presiding Officer

[No. L. 40012/42/86-D II(B)]

नई दिल्ली, 18 अगस्त, 1989

का. आ. 1997.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्र सरकार बंगलूर टेलीफोन के प्रबंधन में सम्बद्ध नियोजकों और उनके कार्यकर्ताओं के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्र सरकार औद्योगिक प्रधिकरण, बंगलूर के पंचपट को प्रकाशित करता है, जो केन्द्र सरकार को 1-8-89 को प्राप्त हुआ था।

New Delhi, the 18th August, 1989

S.O. 1997.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bangalore Telephones and their

workmen, which was received by the Central Government on the 1-8-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT BANGALORE

Dated, the 26th July, 1989

PRESENT

Shri B. N. Lalghe B.A. (Hons.) LL.B., Presiding Officer.

CENTRAL REFERENCE NO. 17/89

I PARTY—Shri R. Vijaya Kumar, No. 48, I Main Road, Palace Guttahalli, Bangalore—560 003.

Vs.

II PARTY—The General Manager, Bangalore Telecom Distt. Office of Gen. Manager (Telephones) Chamber of Commerce Building, K. G. Road, Bangalore—560009

APPEARANCES

For the I party Shri M. S. Anandraman—Advocate.

For the II party Shri V. P. Kulkarni—Advocate

AWARD

By exercising its powers under section 10 (1) (d) of the I.D. Act, the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its order No. L-40012/28/88-D.II(B) dated 27-1-1989.

POINT OF DISPUTE

“Whether the management of Bangalore Telephones is justified in terminating the services of Shri R. Vijayakumar, Peon, with effect from 10-10-1987? If not, to what relief the workman is entitled?”

2. On service of notices, the parties appeared and filed their pleadings.

3. In view of the said pleadings four additional issues were drawn up as shown below :

(1) Whether the Union of India is a necessary party and whether the reference is liable to be rejected for not making the Union of India a party?

(2) Whether the I party R. Vijaya Kumar was not a workman within the meaning of Section 2(s) of the I.D. Act and/or his services were governed by C.C.S. (T.S.) Rules 1965 and that it is not an industrial dispute and that it is not maintainable in this Tribunal?

(3) Whether this Tribunal has no jurisdiction to entertain the dispute as contended in the replies to paras 5 to 18 on page 6 of the counter statement? and

(4) Whether the II party proves that it has held the domestic enquiry in accordance with law?

4. Issue Nos. 1 to 3 were taken up as preliminary issues.

5. Parties were heard on the same.

6. By a considered order dated 24-4-1989 it has been held on issue No. 1 that section 2 (ka) of the I.D. Act is not applicable, and on issue Nos. 2 and 3. It has been held that since the first party is a permanent employee holding a civil post in a department of Government of India, this Tribunal has no jurisdiction to entertain the dispute and that it is not maintainable.

7. Parties were called upon to advance arguments as to why an award should not be passed accordingly. Both of them were absent when the matter was called on 24-7-1989.

8. In the result, an award is passed to the effect that the reference is not maintainable and that it is hereby rejected. The workman Shri R. Vijaya Kumar is not entitled to any award at the hands of this Tribunal.

(Dictated to the Stenographer, taken down by her, got typed and corrected by me).

B. N. LALGE, Presiding Officer,

[No. L-40012/28/88-D II(B)]

HARI SINGH, Desk Officer

